

*The Slovak version of this law is the legally binding version;  
the English version is for informational purposes only.*

## **ACT ON BANKS**

The full text of Act No 483/2001 of 5 October 2001 on banks (and amending certain laws), as amended by Act No 430/2002, Act No 510/2002, Act No 165/2003, Act No 603/2003, Act No 215/2004, Act No 554/2004, Act No 747/2004, Act No 69/2005, Act No 340/2005, Act No 341/ 2005, Act No 214/2006, Act No 644/2006, Act No 209/2007, Act No 659/2007, Act No 297/2008, Act No 552/2008, Act No 66/2009, Act No 186/2009, Act No 276/2009, Act No 492/2009, Act No 129/2010, Act No 46/2011, Act No 130/2011, Act No 314/2011, Act No 394/2011, Act No 520/2011, Act No 547/2011, Act No 234/2012, Act No 352/2012, Act No 132/2013, Act No 352/2013, Act No 213/2014, Act No 371/2014, Act No 374/2014, Act No 35/2015, Act No 252/2015, Act No 359/2015, Act No 392/2015, Act No 405/2015, Act No 437/2015, Act No 90/2016, Act No 91/2016, Act No 125/2016, Act No 292/2016, Act No 298/2016, Act No 299/2016, Act No 315/2016, Act No 2/2017, Act No 264/2017, Act No 279/2017, Act No 18/2018, Act No 69/2018, Act No 108/2018, Act No 109/2018, Act No 177/2018, Act No 345/2018, Act No 373/2018, Act No 6/2019, Act No 30/2019, Act No 54/2019, Act No 211/2019, Act No 305/2019, Act No 390/2019, Act No 340/2020 and Act No 423/2020, Act No 209/2021, Act No 310/2021, Act No 431/2021, Act No 454/2021, Act No 512/2021, Act No 92/2022, Act No 123/2022, Act No 302/2023, Act No 309/2023, Act No 508/2023 and Act No 526/2023

The National Council of the Slovak Republic has adopted this Act:

### **ARTICLE I**

#### **DIVISION ONE BASIC PROVISIONS**

##### **Section 1**

This Act governs certain relations associated with the establishment, organisation, management, business operations, and termination of banks in the territory of the Slovak Republic and certain relations associated with the operation of foreign banks in the territory of the Slovak Republic in order to regulate and supervise banks, foreign bank branches, and other entities with the objective of ensuring the smooth functioning of the banking system.

##### **Section 2**

(1) A bank is a legal person established as a joint stock company<sup>1</sup> with a registered office in the territory of the Slovak Republic, classified as a credit institution in other legislation,<sup>1ab</sup> and operating on the basis of a banking authorisation. A bank may not have any other legal form.

(2) A bank may accept deposits and provide loans, or on satisfaction of the conditions set out in other legislation,<sup>1ac</sup> provide investment services and investment activities in accordance with other legislation.<sup>1ad</sup> Besides the activities under the first sentence, a bank may carry on the following banking activities, provided they are included in its banking authorisation:

(a) the provision of payment<sup>1aa</sup> and settlement services;

- (b) investment activities, investment and auxiliary services under another act,<sup>1a</sup> and investment in securities for own account;
- (c) trading activities for the bank's own account:
  - 1. in gold and in money market instruments in euro or foreign currency, including currency exchange services;
  - 2. in capital market instruments in euro or foreign currency;
  - 3. in precious metal coins, commemorative banknotes and coins, sheets of banknotes and sets of circulation coinage;
- (d) the management of claims on behalf of clients, including advisory services;
- (e) financial leasing;
- (f) the provision of guarantees,<sup>2</sup> opening and endorsing of letters of credit;<sup>3</sup>
- (g) the provision of business advisory services;
- (h) the issuance of securities, participation therein, and the provision of related services;
- (i) financial intermediation;
- (j) the safe custody of assets;
- (k) the renting of safe deposit boxes;
- (l) the provision of banking information;
- (m) performance of the functions of a depository under other legislation;<sup>5</sup>
- (n) the processing of banknotes and coins;
- (o) the issuance and administration of electronic money.

(3) A banking authorisation is an authorisation issued under other legislation<sup>5a</sup> to carry on any or all of the banking activities listed in paragraph 2, in the scope specified in that authorisation and under the terms and conditions stipulated thereby or by this Act and other legislation.<sup>5b</sup>

(4) Where a special authorisation is required for the performance of certain activities as listed in paragraph 2 under other legislation,<sup>6</sup> a banking authorisation to perform these activities and the required special authorisation shall be issued in joint proceedings; this does not apply to foreign banks, which are subject to the provisions of Sections 11 to 20.

(5) Banking activities as listed in paragraph 2 may also be conducted in the territory of the Slovak Republic by foreign banks through their local branches which have a banking authorisation to do so under Section 8 or which are authorised to conduct banking activities under Sections 11 to 20.

(6) Banks may issue registered shares only in book-entry form; it shall be prohibited to change the form of shares.

(7) A foreign bank is a credit institution defined in other legislation<sup>1ab</sup> as a legal person with a registered office outside the territory of the Slovak Republic, carrying on banking activities under a banking authorisation issued in its home country.

(8) A foreign bank branch is a branch defined in other legislation<sup>6a</sup> as a foreign bank's organisational unit located in the territory of the Slovak Republic<sup>7</sup> and authorised to take deposits and grant loans directly; all branches established in the Slovak Republic by a foreign bank based in a Member State of the European Union or in a country belonging to the European Economic Area (hereinafter a 'Member State') shall be deemed to constitute a single branch for authorisation purposes.

(9) Banks and foreign bank branches, except as provided in paragraph 10, may not engage in business activities other than banking activities.

(10) Banks and foreign bank branches may perform non-banking activities for a third person only if these are related to their operations. Such activities are subject to approval by Národná banka Slovenska and shall not be recorded in the Commercial Register.

(11) In connection with the conduct of banking activities, banks and foreign bank branches shall also perform tasks assigned by Národná banka Slovenska in the fields of monetary policy and payments services under other legislation.<sup>8</sup>

(12) Banks and foreign bank branches are not subject to another act,<sup>1</sup> unless this Act provides otherwise.

(13) The provision of payment services is subject to another act.<sup>9</sup>

(14) Banks and foreign bank branches may provide financial intermediation services under other legislation.<sup>9a</sup>

(15) Banks and foreign bank branches shall provide preferential export loans in accordance with other legislation.<sup>9b</sup>

(16) A bank that meets the conditions under other legislation<sup>1ac</sup> and has banking authorisation only for investment services, investment activities and auxiliary services under other legislation,<sup>1a</sup> is referred to as an investment bank. Only a bank meeting the conditions under the first sentence may use the label “investment bank”, or its equivalent in other languages, as part of its business name.

(17) An investment bank is subject to the provisions of this Act in the scope of the activities specified in its banking authorisation.

### Section 3

(1) No person without a banking authorisation may accept deposits, unless other legislation<sup>5</sup> provides otherwise. No person without a banking authorisation may pay interest on, or other compensation for, deposits, which constitutes a tax expense under other legislation.<sup>10</sup>

(2) Unless other legislation<sup>11</sup> provides otherwise, no person without a banking authorisation may provide credit and loans within the scope of its business or other activity using repayable funds obtained from other persons on the basis of a public offer.

(3) No person without a banking authorisation may provide payment services to another person within the scope of its business or other activity unless other legislation<sup>12</sup> provides otherwise.

(4) No person meeting the conditions under other legislation,<sup>1ac</sup> is permitted to undertake investment services, investment activities or auxiliary services under other legislation,<sup>1a</sup> unless Section 7b(2) provides otherwise.

### Section 4

(1) The words ‘bank’ or ‘savings bank’, translations thereof, or words having a root derived therefrom, may be used in a business name only by a legal person that has been granted a banking authorisation. Where confusion may arise, Národná banka Slovenska may request a bank, a foreign bank branch, or other legal person to modify its name; the bank, foreign bank branch, or other legal person concerned shall comply with such request.

(2) The provisions of paragraph 1 do not apply to legal entities whose business name or designation is established or recognised by law or by an international treaty binding upon the Slovak Republic, or where it is evident from the business name that the person using the word ‘bank’ or ‘savings bank’ in its name does not engage in any of the activities listed in Section 2(1).

## Section 5

For the purposes of this Act, the following definitions apply:

- (a) ‘deposit’ means entrusted funds or other repayable funds received from the public, representing a liability towards the depositor to repay them;
- (b) ‘loan’ means funds temporarily provided for own account or funds temporarily provided in any form, including factoring and forfeiting;
- (c) ‘bank branch’ means a branch of a bank as defined in other legislation,<sup>6a</sup> located within or outside the territory of the Slovak Republic, and authorised to accept deposits and provide loans directly;
- (d) ‘investment in securities for own account’ means the acquisition of securities with the objective of exercising long-term influence over the activities of a commercial company and obtaining property and other benefits for a period of at least one year, or the purchase of bonds<sup>13</sup> and their holding from acquisition until maturity;
- (e) ‘money market instruments’ means interbank deposits, securities payable within one year, futures contracts up to one year involving securities maturing within one year and securities with maturity exceeding one year, other derivatives<sup>13a</sup> and yields therefrom, foreign exchange;
- (f) ‘capital market instruments’ means shares, temporary certificates, participation certificates, and other securities accepted for trading in the stock exchange market<sup>13b</sup> with maturity exceeding one year, including dividends and interest thereon;
- (g) ‘financial leasing’ means the leasing of items for an agreed rent for a definite period, paid usually in regular instalments, with the objective of transferring the ownership of these items to the lessee;
- (h) ‘client of a bank or of a foreign bank branch’ means a person with whom a bank or a foreign bank branch has concluded a transaction as part of its banking business;
- (i) ‘banking transaction’ (hereinafter ‘transaction’) means the formation, alteration or termination of relationships established under the law of obligations between a bank or a foreign bank branch and its client, and any operation related to the banking business, including the handling of deposits;
- (j) ‘banking information’ means information concerning a bank’s client acquired by the bank in connection with the conduct of banking activities and provided with the client’s consent;
- (k) ‘public offer’ means any announcement, offer or recommendation made by any person to collect funds in that person’s favour or in a third person’s favour by any means of promulgation, including personal contact with several persons, whether with one person at a time or with several persons at once; for the purposes of this Act, a notification, offer or recommendation made solely through a personal contact and intended for no more than ten persons shall not be deemed to be a public offer;
- (l) ‘payment card’ means a payment instrument enabling a payment service user to withdraw funds from the user’s own account up to a limit allowed by the payment service provider;
- (m) ‘person’ means any natural or legal person, unless only a natural or only a legal person is expressly referred to in the individual provisions of this Act;
- (n) ‘deposit handling’ means any act of establishing, making, transferring, withdrawing or cancelling a deposit, assigning or pledging a deposit, restricting the payment of a deposit, permitting the use of a deposit by another person, as well as any change in the deposit terms and conditions;
- (o) ‘remuneration principles’ means the principles of motivating people in accordance with Section 23a(1) by means of variable remuneration, the amount and payment of which is linked to the results achieved in pursuing the bank’s long-term interests;

- (p) ‘discretionary pension benefits’ means, for the purposes of adopting and applying the principles of remuneration, discretionary pension benefits as defined in other legislation;<sup>13ba</sup>
- (r) ‘financial intermediation’ means the intermediation of money market instruments on the interbank market, the performance of activities related to own financial services which are not subject to another act;<sup>13c</sup>
- (s) ‘basic banking product’ means a banking product comprising the following banking services provided in connection with a payment account:<sup>13d</sup>
1. opening, maintaining, and cancelling a payment account denominated in euro;
  2. performing the following payment operations:
    - 2a. the crediting of euro cash to a payment account;
    - 2b. the withdrawal of euro cash from a payment account;
    - 2c. non-cash money transfers from or to a payment account in euro:
      - 2ca. the execution of payments, including standing orders;
      - 2cb. the collection of payments, including direct debits;
      - 2cc. the execution of payments through payment cards;
  3. issuing international debit cards;
- (t) ‘financial sector entity’ means a financial sector entity as defined in other legislation;<sup>13e</sup>
- (u) ‘regulated market’ means a regulated market as defined in other legislation;<sup>13f</sup>
- (v) ‘leverage’ means leverage as defined in other legislation;<sup>13g</sup>
- (w) ‘competent supervisory authority’ means a competent authority as defined in other legislation;<sup>13h</sup>
- (x) ‘external credit assessment institution’ means an external rating agency as defined in other legislation;<sup>13i</sup>
- (y) ‘central bank’ means central bank as defined in other legislation;<sup>13j</sup>
- (z) ‘institution’ means institution as defined in other legislation;<sup>13k</sup>
- (aa) ‘securitisation’ means securitisation as defined in other legislation;<sup>13l</sup>
- (ab) ‘financial institution’ means a financial institution as defined in other legislation;<sup>13m</sup>
- (ac) ‘small or medium-sized legal person’ means a legal person whose annual turnover does not exceed EUR 50,000,000;
- (ad) ‘resident of the European Union’ means a natural person residing or entitled to reside in a Member State of the European Union under other legislation;<sup>13ma</sup>
- (ae) ‘payment account with basic features’ (hereinafter ‘standard account’) means a payment account including the following banking services provided in connection with a payment account:<sup>13mb</sup>
1. opening, maintaining and cancelling a payment account;
  2. performing the following payment operations;
    - 2a. the crediting of euro cash to payment accounts;
    - 2b. the withdrawal of euro cash from payment accounts;
    - 2c. non-cash transfers from or to payment accounts in euro:
      - 2ca. the collection of payments, including direct debits;
      - 2cb. the execution of payments, including standing orders;
      - 2cc. the execution of payments through payment cards;
  3. issuing payment cards;
- (aft) for the purposes of Sections 33o to 33z and 62a, ‘group’ means a parent undertaking and its subsidiaries;
- (ag) ‘debtor’s special account’ means a payment account including, but not limited to, the following banking services related to a payment account:
1. the opening, maintenance, and closing of a debtor’s special account;
  2. the execution of the following payment operations:
    - 2a. a one-off deposit or transfer of funds in euro under other legislation;<sup>13mc</sup>
    - 2b. once per calendar month the withdrawal of funds from a debtor’s special account in an amount laid down in other legislation and at the place where a bank or a foreign bank branch operates in the Slovak Republic;

- (ah) ‘mortgage loan’ means a loan provided by a bank, foreign bank or foreign bank branch secured with a security interest<sup>13n</sup> or with another security right established in a real property including properties under construction, apartments including apartments under construction, or non-residential premises including premises under construction (hereinafter a ‘real property’), in part of a real property or in a future real property;
- (ai) ‘capital conservation buffer’ means the own funds that a bank is required to maintain in accordance with Section 33b;
- (aj) for the purposes of this Act, except for Sections 33o to 33z, Sections 49a to 49o and Section 62a, ‘group’ means a group as defined in other legislation;<sup>13na</sup>
- (ak) ‘third-country group’ means a group of which the parent undertaking is established in a third country.

## **DIVISION TWO GENERAL PROVISIONS ON SUPERVISION**

### **Section 6**

(1) The activities of banks and foreign bank branches are subject to supervision by Národná banka Slovenska.<sup>8</sup> The activities of other persons and entities associated with the operation or management of banks and foreign bank branches are also subject to supervision in the range stipulated by this Act. Supervision shall be exercised in the range specified therein over individual banks, foreign bank branches, or other entities, as well as over consolidated groups comprising banks and over financial conglomerates in accordance with Section 49c.

(2) In exercising supervision over a bank or a foreign bank branch, Národná banka Slovenska shall, in particular, review and evaluate the organisation, management, division of responsibilities, strategies, systems and procedures adopted for the performance of activities as defined in the banking authorisation, information flows, and the risks to which the bank or foreign bank branch under supervision is or may be exposed; in so doing, Národná banka Slovenska shall also verify whether the supervised entity has enough own funds to cover these risks in accordance with Section 29(3). In carrying out supervisory review and evaluation according to the first sentence, Národná banka Slovenska shall apply the principle of proportionality in accordance with the general evaluation criteria and methodology published in accordance with paragraph 20(c). Národná banka Slovenska shall, at least once a year, carry out a review and evaluation appropriate to the nature and scope of the banking activities performed. On the basis of the results thereof, Národná banka Slovenska shall assess whether the organisation and management of the bank or foreign bank branch under supervision, the strategies, systems and procedures used in performing the activities stated in the banking authorisation, and the level of own funds conform to the rules of prudent management of a bank or a foreign bank branch, and it shall also assess the adequacy of risk coverage by own funds. On the basis of this assessment, Národná banka Slovenska shall notify the supervised entity whether its own funds suffice for the coverage of risks; if there is a shortage of own funds, Národná banka Slovenska shall specify the required amount of own funds in this notification. In exercising supervision, Národná banka Slovenska shall duly consider the potential impact of its decisions on the stability of the financial system, especially in emergency situations as defined in Section 48(8)(c). If, on the basis of an examination, Národná banka Slovenska finds that a bank or a foreign bank branch represents a systemic risk, it shall forthwith inform the European supervisory authority (European Banking Authority)<sup>13o</sup> of the results of that examination.

(3) The scope of supervision shall not include the resolution of contractual disputes between banks or foreign bank branches and their clients, which shall be heard and settled by a competent court or other authority under other legislation.<sup>14</sup>

(4) Supervision on a consolidated basis shall not replace the supervision of individual persons included in a consolidated group, nor shall it replace the supervision of individual banks and foreign bank branches under this Act, nor supervision under other legislation.<sup>15</sup>

(5) The supplementary supervision of financial conglomerates shall not replace supervision on a consolidated basis, supervision of individual persons included in a consolidated group, supervision of individual persons included in a financial conglomerate, supervision of individual banks and foreign bank branches under this Act, nor supervision under other legislation.<sup>15</sup>

(6) The exercise of supervision on a consolidated basis or the exercise of supplementary supervision over financial conglomerates shall not place Národná banka Slovenska under the obligation to exercise supervision over individual persons included in a consolidated group or a financial conglomerate, where these persons are not subject to supervision by Národná banka Slovenska.

(7) Banks and foreign bank branches shall allow any person who is commissioned to exercise supervision to attend the general meetings, supervisory board meetings, and statutory body meetings of the bank, or the management meetings of the foreign bank branch under supervision.

(8) Responsibility for supervision shall be borne by Národná banka Slovenska. Persons who exercise supervision on behalf of Národná banka Slovenska shall not be liable to third persons for the consequences of such supervision; this is without prejudice to their liability under the provisions of criminal law or to their responsibility towards Národná banka Slovenska under the labour law regulations.

(9) If, in the course of supervision, Národná banka Slovenska reveals any fact pointing to the commission of a criminal offence, it shall inform the competent law enforcement authority without delay.

(10) A supervisory authority of a foreign country may exercise supervision in the territory of the Slovak Republic over the activities of a foreign bank branch or a foreign bank's banking subsidiary solely on the basis of an agreement concluded between Národná banka Slovenska and the supervisory authority of that country, or under this Act. Národná banka Slovenska may conclude such agreement solely on a reciprocal basis. A foreign supervisory authority intending to carry out an on-site inspection in the territory of the Slovak Republic shall notify Národná banka Slovenska in advance. In conducting such inspections, the persons designated by the foreign supervisory authority shall have the same powers, duties and responsibilities as the staff members of Národná banka Slovenska authorised to conduct on-site inspections under other legislation;<sup>15a</sup> they shall not, however, be obliged to produce a written protocol on the inspection they carry out, nor to set time limits for the adoption and implementation of measures to eliminate any shortcomings revealed by the inspection and to notify the supervised entity of these limits.

(11) Národná banka Slovenska may exercise supervision over branches or banking subsidiaries of banks operating in the territory of a foreign country, if so permitted by legislation of that country and by an agreement concluded between Národná banka Slovenska and the competent supervisory authority of that country. The provisions of Sections 23, 23a, 23b, 23e, 24, 25, and 27 do

not apply to subsidiaries of banks according to the first sentence, where the EU parent bank can demonstrate that such supervision is unlawful under the laws of the third country in question.

(12) The central securities depository or a member of the central securities depository<sup>16</sup> shall, upon request, provide Národná banka Slovenska with any information from the records they maintain, for supervisory purposes.

(13) In exercising supervision over banks and foreign bank branches on an individual or consolidated basis, Národná banka Slovenska shall cooperate with the competent supervisory authorities of foreign countries, with the Slovak Chamber of Auditors, with auditors or audit firms<sup>17</sup> (hereinafter ‘auditors’), with payment system operators,<sup>9</sup> with a special unit of the financial police service of the Police Force<sup>17a</sup> (hereinafter ‘the Financial Intelligence Unit’), and with competent authorities responsible for the application of rules on structural separation within a banking group, and shall be entitled to exchange information with them and to draw their attention to deficiencies identified in the course of supervision. The duty of confidentiality as defined in this Act and other legislation<sup>18</sup> does not apply to the disclosure of information pursuant to this paragraph. For the purpose of supervising a bank’s branch established in another Member State, Národná banka Slovenska shall provide the competent supervisory authority of that Member State with, in particular, information on the bank’s management and ownership structure, liquidity management rules, maintenance of own funds, exposure limits, as well as information on the bank’s deposit protection system, administrative and accounting procedures, and internal control procedures. Národná banka Slovenska may notify the European supervisory authority (European Banking Authority) if its request for cooperation, in particular for information exchange, is declined or not answered in due time. Národná banka Slovenska shall provide the competent supervisory authority of the home Member State with any information and findings concerning supervision of a bank’s liquidity to the extent necessary for the protection of depositors or investors in the Member State in which the bank has a branch; where a liquidity problem occurs or may occur, the information provided shall include data on the planning and implementation of measures adopted within the scope of supervision. In the case of a foreign bank branch operating in the Slovak Republic, Národná banka Slovenska shall inform the competent supervisory authority of the home Member State about the deposit protection system used in the Slovak Republic. Národná banka Slovenska may not disclose confidential information received from the supervisory authorities of other Member States without the consent of the foreign supervisory authority that has provided the information in question. Národná banka Slovenska may use confidential information received from other Member States’ supervisory authorities only when performing its tasks and duties in connection with:

- (a) the exercise of supervision over entities by checking and monitoring compliance with the conditions regarding the taking up and pursuit of business by the entities under supervision on an individual or consolidated basis, especially in regard to the monitoring of their liquidity, capital adequacy, large exposures, administrative and accounting procedures, and internal control mechanisms;
- (b) the imposition of sanctions under this Act or under other legislation;<sup>15</sup>
- (c) appeal proceedings taken against the decisions of Národná banka Slovenska;
- (d) judicial review of the decisions of Národná banka Slovenska or other judicial proceedings related to the entities under supervision or to the supervision process.

(14) Where Národná banka Slovenska comes to the conclusion that a foreign bank branch is significant, it shall submit a duly justified application to the home Member State’s supervisory authority responsible for supervising banks on a consolidated basis or to the home Member State’s supervisory authority that supervises the parent bank of the said branch, for confirmation that the foreign bank branch in question is significant; in this regard, Národná banka Slovenska shall, in particular, take into account:



- (a) whether the foreign bank branch holds more than 2% of the total volume of deposits taken in the Slovak Republic;
- (b) the possible impact of operation suspension or termination by the foreign bank on market liquidity, the payment system, securities settlement system, and payment settlement system used in the Slovak Republic; and
- (c) the size and significance of the foreign bank branch concerned in terms of the number of clients in relation to the financial system of the Slovak Republic.

(15) In determining whether a foreign bank branch is significant, Národná banka Slovenska shall cooperate with the supervisory authorities referred to in paragraph 14. If Národná banka Slovenska and the competent supervisory authority mentioned in paragraph 14 do not agree, within two calendar months of receipt of an application made pursuant to paragraph 14, that the branch in question is significant, Národná banka Slovenska shall, within two calendar months of the expiry of this period, determine whether the said foreign bank branch is significant. In so doing, Národná banka Slovenska shall take into account any views and reservations of the supervisory authority referred to in paragraph 14. If, within two months of receipt of an application made pursuant to paragraph 14, the supervisory authority referred to in paragraph 14 requests the European supervisory authority (European Banking Authority) to provide assistance in negotiating an agreement under other legislation,<sup>19</sup> Národná banka Slovenska shall determine whether the foreign bank branch in question is significant in line with the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue such decision within one month of receipt of a request for assistance, Národná banka Slovenska shall determine independently whether the foreign bank branch in question is significant. Národná banka Slovenska shall forward any information indicating that the foreign bank branch is significant, backed by adequate justification, to the supervisory authority referred to in paragraph 14. The assessment of a foreign bank branch as significant shall have no influence on the rights and obligations of Národná banka Slovenska under this Act or other related legislation of general application.

(16) Národná banka Slovenska shall provide the competent supervisory authority of the Member State in which a bank's branch has been assessed as significant with information pursuant to Section 48(9)(c) and (d) and, in cooperating with that supervisory authority, it shall proceed in accordance with Section 48(7)(c). If Národná banka Slovenska learns that the parent bank in question is in a critical situation under Section 48(1), it shall forthwith notify the competent supervisory authority of the Member State in which the bank's significant branch is located, as well as another public authority in this Member State having information about this branch. Národná banka Slovenska shall notify the competent supervisory authority of the Member State in which the significant branch is located of the results of risk assessment carried out pursuant to paragraph 2, as well as of its own decisions taken under Section 50 in a range that is relevant for this branch. Národná banka Slovenska shall also consult the competent supervisory authority about the imposition of liquidity risk mitigating measures if relevant.

(17) Where Národná banka Slovenska is not commissioned to act as a consolidating supervisor in accordance with Section 48(9) and (10) and where Národná banka Slovenska exercises supervision over a bank with a branch, classified as significant, in another Member State, Národná banka Slovenska shall:

- (a) set up and chair a working group of supervisory authorities (hereinafter 'working group') in order to facilitate cooperation under paragraphs 13 and 16;
- (b) determine which supervisory authority is competent to participate in the meetings and activities of the working group;

- (c) take into account the importance of supervisory activities that are to be planned or coordinated and, in particular, their possible effects on the financial system's stability under paragraph 2 and on the obligations referred to in paragraph 16;
- (d) inform fully and well in advance each member of the working group of the date, place, and agenda of the group's next meeting;
- (e) inform fully and in due time each member of the working group of the decisions taken at the group's meetings and of the measures adopted.

(18) Information provided as stipulated in paragraph 12 may be used exclusively for supervisory purposes, for audit, and for the supervision of auditors. The authorities and persons referred to in paragraph 12 shall ensure that such information is kept confidential in accordance with the confidentiality requirements of this Act and other legislation.<sup>18</sup> Such information may be mutually exchanged by the authorities or persons mentioned in paragraph 12 only with the consent of Národná banka Slovenska.

(19) Národná banka Slovenska shall publish methodological guidelines and recommendations relating to supervision in the Official Journal of Národná banka Slovenska. [Vestník Národnej banky Slovenska].

(20) Národná banka Slovenska shall publish the following information on its website:

- (a) legislation of general application, methodological guidelines, and recommendations relating to financial market supervision;
- (b) the method of exercising national discretions in relation to the transposition of the European Union's binding legislative acts and the selection possibilities that arise for banks under this Act;
- (c) the general evaluation criteria and methodology, including the criteria for the application of the principle of proportionality, used by Národná banka Slovenska in exercising supervision over banks and foreign bank branches;
- (d) aggregate statistical data on the key indicators relating to regulatory changes concerning the banking sector;
- (e) the list of recognised credit rating agencies;<sup>20</sup>
- (f) the list of higher territorial units or municipalities which, for the purpose of calculating risk-weighted exposures using the standardised approach for credit risk, have been assigned the same risk weights as countries.

(21) On the basis of the findings emerging from an examination carried out pursuant to paragraph 2, Národná banka Slovenska may increase the number and frequency of on-site inspections, place permanent representatives of Národná banka Slovenska at banks, request additional reports, more frequent reviews for strategic and business plans, or conduct thematic inspections.

(22) Národná banka Slovenska shall prepare a plan of on-site inspections and a plan of off-site supervision on an annual basis. These inspection plans shall contain information on:

- (a) the performance of inspections and supervisory tasks;
- (b) entities that are subject to supervision pursuant to paragraph 1;
- (c) the plan of inspections/supervision under Sections 47(9) and 48(9);

(23) In preparing the inspection plans referred to in paragraph 22, Národná banka Slovenska shall take into account in particular:

- (a) the stress-test results of banks;
- (b) the information and findings obtained from the competent supervisory authority of the Member State in which the supervised entity operates;
- (c) the banks that are to be taken into account according to Národná banka Slovenska.

(24) The conditions set out in Sections 30 to 32, under which a bank may be granted prior approval under Sections 30 to 32, shall be met by the bank throughout the validity of the prior approval. Národná banka Slovenska shall, at least every three years, evaluate the fulfilment of the conditions under which a bank has been granted prior approval under Sections 30 to 32, with regard to the new types of transactions.

(25) Where a bank fails to meet the conditions set out in Sections 30 to 32 under which it has been granted prior approval, Národná banka Slovenska may withdraw the prior approval or impose appropriate measures to improve the internal approach pursuant to Sections 30 to 32. Apart from the measures mentioned in Section 50, these measures may also include a measure consisting in the submission of a recovery plan in accordance with the conditions under which the prior approval has been granted, with specific deadlines for submission and implementation. If the bank is unable to submit and implement a recovery plan, the prior approval granted under Sections 30 to 32 shall be withdrawn by Národná banka Slovenska or restricted to the part that is in line with the conditions stipulated for internal approach under Sections 30 to 32. Where the inconsistency with the conditions under which the prior approval has been granted under Sections 30 to 32 may lead to an inadequacy of own funds, Národná banka Slovenska shall be entitled to request the bank to provide proof of compliance with the own funds requirements under other legislation.<sup>20a</sup>

(26) Národná banka Slovenska shall supply the European supervisory authority (European Banking Authority) with information on:

- (a) the findings of examinations and evaluations pursuant to paragraph 2;
- (b) the decision-making methodology under paragraphs 2, 22 to 25, and Section 50.

(27) Národná banka Slovenska shall carry out stress tests at least once a year. The stress-test results<sup>20b</sup> may be published or provided to the European supervisory authority (European Banking Authority) for the purpose of publication, along with other stress-test results from the European Union.

(28) If the competent supervisory authority of a Member State provides Národná banka Slovenska with information and findings concerning a bank branch or a bank carrying on banking activities in the territory of that Member State, on the basis of which corrective measures are to be employed, Národná banka Slovenska shall inform the competent supervisory authority of the Member State concerned about the corrective measures it has taken, including an explanation if requested. If the competent supervisory authority of the Member State disagrees with the steps taken by Národná banka Slovenska and imposes other corrective measures with which Národná banka Slovenska disagrees, the matter may be forwarded to the European supervisory authority (European Banking Authority) for consideration under other legislation.<sup>19</sup>

(29) If Národná banka Slovenska provides another Member State's competent supervisory authority with information and findings on a foreign bank branch under Section 11(1) or a foreign bank under Section 11(2) carrying on banking activities in the territory of the Slovak Republic, on the basis of which corrective measures are to be employed but the Member State concerned fails to introduce appropriate measures, Národná banka Slovenska may, after informing the competent supervisory authority and the European supervisory authority (European Banking Authority), take appropriate measures for the prevention of further infringements with the aim of protecting the interests of depositors, investors, and other entities to which services are provided, or with the aim of protecting the stability of the financial system.

(30) Apart from assessing the credit risk, market risk, and operational risk faced by banks, Národná banka Slovenska shall, within the scope of supervision, also review and evaluate:

- (a) the results of stress tests carried out by banks using the internal ratings-based approach under other legislation;<sup>20c</sup>
- (b) the concentration risk exposures of banks, including their management and compliance with other legislation;<sup>20d</sup>
- (c) the risk management procedures used in connection with credit risk mitigation, including their suitability and method of application;
- (d) the own funds of banks in terms of their adequacy in relation to assets that are subject to securitisation with regard to its economic essence and the degree of risk transfer;
- (e) the liquidity risk exposures of banks, the measurement and management of this risk, including an analysis of alternative scenarios, management of risk mitigating factors;
- (f) the effects of risk spreading and the method used to incorporate these effects into the risk measurement system, the results of stress tests carried out by banks using their own market risk calculation models under other legislation;<sup>20e</sup>
- (g) the geographic distribution of exposures;
- (h) the business models of banks;
- (i) repealed as from 29 December 2020.

(31) For the purposes specified in paragraph 30(e), Národná banka Slovenska shall, within the scope of supervision, also review and evaluate:

- (a) the liquidity risk management strategy of the bank under supervision, including the bank's financial market position;
- (b) whether the bank has provided hidden support for securitisation; if the bank is found to have provided such support more than once, Národná banka Slovenska shall take measures to eliminate the risk that the bank will provide hidden support for securitisation in the future;
- (c) whether adjustments to the valuation of positions or portfolios in the trading book under other legislation<sup>20f</sup> enable the bank to sell or secure its position under market conditions in a short time, without any significant loss;
- (d) interest rate risk exposures arising from non-business activities; if a bank's economic value falls by more than 20% of the value of own funds as a result of an unexpected change in interest rates by more than 200 basis points or by a value determined by the European supervisory authority (European Banking Authority), Národná banka Slovenska shall impose a corrective measure;
- (e) banks' exposure to the risk of excessive leverage,<sup>20g</sup> as reflected by the leverage ratio determined in accordance with other legislation<sup>20h</sup> and based on mismatches between assets and liabilities;
- (f) the bank's management and control system, the eligibility of statutory body members and supervisory board members to perform their tasks and duties.

(32) In exercising supervision of foreign bank branches established in a third country, Národná banka Slovenska shall cooperate with competent supervisory authorities of the institutions that are part of the same third-country group to ensure that all activities of that group are subject to supervision, to prevent the requirements applicable to third-country groups pursuant to this Act and other legislation<sup>30x</sup> from being circumvented and to prevent any risks to financial stability at the European Union level.

(33) Národná banka Slovenska may tailor the review and evaluation methodology referred to in paragraph 2 to take into account banks and foreign bank branches with a similar risk profile, such as similar business models or geographical location of exposures. Such tailored methodology may include risk-oriented benchmarks and quantitative indicators, shall allow for due consideration of the specific risks that each bank or foreign bank branch may be exposed to, and shall not affect the institution-specific nature of corrective measures imposed in accordance with Section 50. When

following the procedure referred to in the first sentence, Národná banka Slovenska shall notify the European supervisory authority (European Banking Authority).<sup>13o</sup>

(34) If, after performing the review and evaluation in accordance with paragraph 2, there are reasonable grounds to suspect that the bank or foreign bank branch is in breach of, breached or attempted to breach the provisions of other legislation,<sup>21a</sup> or there is an elevated risk of breaching the provisions of other legislation,<sup>21a</sup> Národná banka Slovenska shall, without delay, inform the European supervisory authority (European Banking Authority) and the Financial Intelligence Unit of the results of the examination. If there is an elevated risk of breaching the provisions of other legislation,<sup>21a</sup> Národná banka Slovenska shall, in cooperation with the Financial Intelligence Unit, assess the situation and inform the European supervisory authority (European Banking Authority) of the results of such joint assessment without undue delay. If necessary, Národná banka Slovenska shall adopt corrective measures under Section 50. This is without prejudice to the provisions of Section 48(15).

(35) In accordance with the conditions set out in paragraphs 36 and 37, Národná banka Slovenska may share information with or send information to:

- (a) the International Monetary Fund and the World Bank for the purposes of the Financial Sector Assessment Program;
- (b) the Bank for International Settlements for the purposes of the Quantitative Impact Study;
- (c) the Financial Stability Board for the purposes of its supervisory functions.

(36) Národná banka Slovenska may only share confidential information following a request by the competent authorities referred to in paragraph 35, where at least the following conditions are met:

- (a) the request is duly justified in light of the specific tasks performed by the competent authority referred to in paragraph 35 in accordance with its statutory mandate;
- (b) the request is sufficiently precise as to the nature, scope, and format of required information, and the means of its disclosure or transmission;
- (c) the requested information is strictly necessary for the performance of the specific tasks of the competent entity referred to in paragraph 35 and does not go beyond the statutory tasks conferred upon it;
- (d) the information is transmitted or disclosed exclusively to the persons directly involved in the performance of the specific tasks referred to in point (c);
- (e) the persons having access to the information are subject to confidentiality requirements at least equivalent to those referred to in this Act or other legislation.<sup>18</sup>

(37) Where the request is made by the competent authorities referred to in paragraph 35, Národná banka Slovenska may only transmit aggregate information that does not include names of banks or foreign bank branches and/or forenames and surnames of clients and may only share other information at its premises.

## Section 6a

(1) Banks using the internal ratings-based approach for credit risk under Section 30, or their own market risk calculation models under Section 31, shall submit to Národná banka Slovenska annual reports on the results of calculations made within the scope of their internal approaches for exposures or positions that are part of the reference portfolios in accordance with other legislation.

(2) On the basis of the reports of banks on the results of calculations made within the scope of their internal approaches under Sections 30 and 31 for their exposures or positions that are part of the reference portfolios, Národná banka Slovenska shall monitor the range of risk-weighted exposure

amounts or the own funds requirements, except for the operational risk, for reference portfolio exposures or transactions arising from the internal approaches of banks. Národná banka Slovenska shall assess the quality of these internal approaches at least once a year, paying particular attention to:

- (a) approaches that show significant differences in own funds requirements for the same exposure;
- (b) approaches that show disproportionately large or disproportionately small differences, as well as considerably and systematically underestimated own funds requirements.

(3) If a bank uses substantially different internal approaches than the majority of comparable banks or if its internal approaches have few common characteristics with the approaches of comparable banks, which may lead to great differences in the results, Národná banka Slovenska shall examine the causes of this fact. Where a bank's internal approaches lead to an underestimation of the own funds requirements, which are not associated with the differences in related risks in exposures or positions, Národná banka Slovenska shall impose a measure on the bank in accordance with Section 50.

(4) The measures imposed under paragraph 3 may not:

- (a) lead to standardisation, nor to the preferential use of certain methods by banks within their internal approaches pursuant to paragraphs 2 and 3;
- (b) provide banks with incorrect stimuli;
- (c) cause herd behaviour among banks.

## **DIVISION THREE BANKING AUTHORISATION**

### **Section 7**

(1) The granting of banking authorisations falls within the competence of Národná banka Slovenska. A decision to grant a banking authorisation under other legislation<sup>21</sup> shall be made by Národná banka Slovenska after consultation with the Ministry of Finance of the Slovak Republic (hereinafter the 'Ministry'). An application for a banking authorisation shall be submitted to Národná banka Slovenska.

(2) For a banking authorisation under paragraph 1 to be granted, the following conditions must be met:

- (a) the bank's share capital of at least EUR 16,600,000 is paid up;
- (b) the share capital and other financial resources of the bank have a clear and trustworthy provenance;<sup>21a</sup>
- (c) persons who will be shareholders in the bank with a qualifying holding are eligible and competent and their relationships with other entities are transparent, especially as regards interests in the share capital and in the voting rights;
- (d) the members of the bank's statutory body are nominated in accordance with Section 24(1);
- (e) persons nominated to a position at the bank that is a member of the statutory body, an authorised representative, a member of the supervisory board, a manager, or the chief internal control/audit officer are professionally competent and of good repute;
- (f) the bank has a draft articles of association;
- (g) the bank has a business plan based on a proposed strategy for its activities, supported by real economic calculations;
- (h) any closely linked group that includes a shareholder with a qualifying holding in the bank is transparent;

- (i) the exercise of supervision is not impeded by the close links of the group mentioned in point (h);
- (j) the exercise of supervision is not impeded by the national law, or the manner of its implementation, in a country in which the group mentioned in point (h) has close links;
- (k) the bank's registered office, headquarters, and place of business will be in the territory of the Slovak Republic; the bank may also conduct banking activities outside the territory of the Slovak Republic through its branches or directly, without establishing a branch, under the conditions laid down in this Act;
- (l) the shareholders establishing the bank can prove their financial capacity to overcome an adverse financial situation faced by the bank;
- (m) the conditions equivalent to those for the issuance of an authorisation for investment services<sup>22a</sup> are met, as appropriate, in relation to the requested scope of investment services, investment activities, and ancillary services;
- (n) the conditions equivalent to those for the issuance of an authorisation to provide payment services<sup>22b</sup> are met, as appropriate, in relation to of the requested scope of payment services;
- (o) the conditions equivalent to those for the issuance of an authorisation to issue electronic money<sup>22c</sup> are met, as appropriate, in relation to of the requested issue of electronic money;
- (p) appropriate technical systems and procedures, and adequate resources, material and technical conditions are available for the proper conduct of banking activities;
- (q) adequate organisational conditions, qualified personnel, and a functional management and control system, including internal control and internal audit, a risk management system, and prudential rules and regulations are available for the conduct of banking activities;
- (r) the applicant has not been convicted by a final judgement of a criminal offence; this fact shall be proved with a criminal record check certificate applied for in accordance with paragraph 16 or, if that person is a foreigner, with an equivalent document, not older than three months, issued by a competent authority of the country of which that person is a national or in which that person permanently or habitually resides.

(3) Národná banka Slovenska shall reject an application submitted under paragraph 1 where the applicant fails to meet any of the conditions listed in paragraph 2. An application made under paragraph 1 may not be rejected because of the economic needs of the financial market.

(4) Before commencing banking activities in accordance with their authorisation, banks shall prove to Národná banka Slovenska that:

- (a) their share capital has been paid up in full amount;
- (b) they are technically and organisationally prepared, adequately staffed, and equipped with a management and control system, including internal control and internal audit, and a risk management system;
- (c) they meet the requirements laid down in Section 27(13).

(5) Banks may commence banking activities in accordance with their authorisation upon receipt of a written notification from Národná banka Slovenska recognising that the conditions set out paragraph 4 have been met.

(6) Banks shall meet the conditions specified in paragraphs 2 and 4 throughout the validity of their banking authorisation.

(7) An applicant whose shareholder with a qualifying holding is a foreign bank shall submit, along with the application for a banking authorisation, a binding written statement from the supervisory authority of the country in which the foreign bank has its registered office concerning the establishment of a bank in the territory of the Slovak Republic, as well as a binding written commitment by the supervisory authority that it will inform in writing Národná banka Slovenska in due time of any changes occurring in the maintenance of own funds in respect of the relevant

requirements, liquidity, and other facts that may adversely affect the ability of the foreign bank to meet its obligations.

(8) Národná banka Slovenska shall discuss an application for a banking authorisation with the competent supervisory authorities of the Member State concerned under Section 7a(1), where a banking authorisation is to be granted under paragraph 1 to an applicant:

- (a) which will be a subsidiary of a foreign bank whose registered office is located in that Member State;
- (b) which will be a subsidiary of the foreign bank's parent undertaking established in that Member State;
- (c) which will be controlled by the same persons that control the foreign bank established in that Member State;
- (d) which will be a subsidiary of an insurance company or investment firm established in that Member State;
- (e) which will be a subsidiary of the insurance company's or investment firm's parent undertaking established in that Member State;
- (f) which is controlled by the same persons that control the insurance company or investment firm established in that Member State.

(9) Národná banka Slovenska shall, by way of a decree<sup>23</sup> promulgated in the Collection of Laws of the Slovak Republic (hereinafter the 'Collection of Laws'), stipulate:

- (a) the elements of an application for a banking authorisation pursuant to paragraph 1, including the elements of an application of a bank that is to perform its activities under other legislation,<sup>21</sup> and documents to be attached to the application;
- (b) the details of conditions specified in paragraph 2 and how compliance is to be proved;
- (c) how compliance with the requirements set out in paragraph 4 is to be proved.

(10) For the purposes of this Act, 'eligible person' means a person that demonstrably meets the conditions laid down in paragraph 2(b) and is able, as the circumstances appear to suggest, to ensure the proper and safe conduct of banking activities with a view to maintaining stability in the banking sector.

(11) For the purposes of this Act, 'qualifying holding' means qualifying holding as defined in other legislation.<sup>23a</sup>

(12) For the purposes of this Act, 'indirect holding' means a holding which is held through an intermediary, the same being either one or more legal entities over which the person concerned exercises control.

(13) For the purposes of this Act, 'group with close links' means group with close links as defined in other legislation.<sup>23b</sup>

(14) Only a professionally competent person may be appointed as, and perform the duties of, a member of a bank's statutory body, a member of a bank's supervisory board, the head or deputy head of a foreign bank branch, an authorised representative, a manager, or as the chief internal control/audit officer in a bank or a foreign bank branch. For the purposes of this Act, 'professional competence' of a natural person nominated as a member of a bank's statutory body, an authorised representative, the head or deputy head of a foreign bank branch, a manager, or as the chief internal control/audit officer means completed university education, at least three years of experience in banking or another field of finance, and three years of management experience in banking or another field of finance. A person with completed secondary education, completed technical/business college



education or other similar education acquired abroad, and with at least seven years of experience in banking or another field of finance, of which at least three years were spent in a managerial position, may also be recognised by Národná banka Slovenska as a professionally competent person. For persons nominated to a bank's supervisory board, 'professional competence' means extensive knowledge and experience in banking or another field of finance. In a decree promulgated in the Collection of Laws, Národná banka Slovenska shall give a precise definition of what is meant by professional competence for performing the duties of a bank's supervisory board member, statutory body member, the head of a foreign bank branch, the deputy head of a foreign bank branch, and authorised representative, a manager or the head of internal control and internal audit in a bank or a foreign bank branch, and shall specify how such professional competence is to be proved.

(15) For the purposes of this Act, a natural person is deemed to be of good repute if that person:

- (a) has not been convicted by a final judgement of a property-related crime, a crime committed in connection with the performance of managerial duties, or an intentional crime; these facts shall be proved with a criminal record transcript<sup>24</sup> or, if that person is a foreigner, with an equivalent document, not older than three months, issued by a competent authority of the country of which that person is a national or in which that person permanently or habitually resides;
- (b) has not in the past ten years held a position mentioned in paragraph 2(e) at a bank, a foreign bank or another financial institution,<sup>13m</sup> nor the position of head of a foreign bank branch or manager at a foreign bank branch, at any time within one year before the banking authorisation or other business authorisation of that entity was withdrawn;
- (c) has not in the past ten years held a position mentioned in paragraph 2(e) at a bank, a foreign bank or another financial institution<sup>13m</sup> at any time within one year before that entity was placed in receivership or was subjected to a foreign reorganisation measure under Section 53(9);
- (d) has not in the past ten years held a position mentioned in paragraph 2(e) at a bank, a foreign bank or another financial institution<sup>13m</sup> at any time within one year before that entity entered into liquidation or was declared insolvent,<sup>24aa</sup> before a bankruptcy order was made against it, before it was admitted to restructuring proceedings, before a compulsory or voluntary arrangement with its creditors was confirmed or approved, before a petition for a bankruptcy order against it was refused on grounds of insufficient assets, or before bankruptcy proceedings against it were suspended or discontinued on grounds of insufficient assets;
- (e) has not in the past ten years received a final fine under Section 50(2) exceeding 50% of the maximum fine that could be imposed on them under that provision;
- (f) is not deemed to be a person not of good repute pursuant to other legislation<sup>24a</sup> pertaining to the financial market;
- (g) has during the past ten years performed their duties and conducted their business activities reliably, honestly, and without infringing any legislation of general application, and, these facts being taken into account, guarantees that they will perform the duties of the position for which they have been nominated in a reliable and honest manner, without infringing any legislation of general application, and in fulfilment of their obligations under legislation of general application and under the articles of association and other internal regulations of the bank or foreign bank.

(16) For the purposes of reviewing and demonstrating facts concerning good repute under paragraphs 2(r) and 15(a), the applicant and the person concerned shall provide in writing to Národná banka Slovenska the information<sup>24aaa</sup> necessary for requesting a criminal record check certificate or criminal record transcript; the provision and verification of that information, the verification of identity, and the requesting, issuing and transmitting of the criminal record check certificate or criminal record transcript are subject to the provisions of Section 94 and other legislation,<sup>24aaab</sup> with the proviso that Národná banka Slovenska shall send that information in electronic form by electronic

communication to the Prosecutor-General's Office of the Slovak Republic for the issuance of the criminal record check certificate or criminal record transcript.

(17) Národná banka Slovenska may recognise the person referred to in paragraph 15(b) to (d) and (f) as being of good repute if the nature of the matter implies that, given the period of time for which they held the position mentioned in paragraph 2(e) at a financial market entity,<sup>89</sup> this person could not have caused the consequences mentioned in paragraph 15(b) to (d); the person referred to in paragraph 15(g) may likewise be recognised as being of good repute if, given the nature of the matter and the period of time for which they held the position when an infringement subject to paragraph 15(g) was detected, this person guarantees that they will perform the duties of the position to which they have been appointed, including the obligations referred to in paragraph 15(g), reliably, honestly and without infringing any legislation of general application. In assessing the good repute of the natural person, Národná banka Slovenska shall also take into account the reasons why the relevant bank, foreign bank, investment firm, foreign investment firm or financial institution went into liquidation and the reasons why its banking authorisation or other business authorisation was withdrawn.

(18) For the purposes of this Act, 'subsidiary' means subsidiary as defined in other legislation.<sup>24aaa</sup>

(19) For the purposes of this Act, 'parent undertaking' means a parent undertaking as defined in other legislation.<sup>24aab</sup>

(20) For the purposes of this Act, 'control' means control as defined in other legislation.<sup>24aac</sup>

(21) For the purposes of this Act, 'manager' means a person directly reporting to the statutory body of a bank or to the head or deputy head of a foreign bank branch, who manages the activities or part thereof of a bank or a foreign bank branch.

(22) For the purposes of this Act, 'significant influence' means a possibility to exercise influence over the management of a legal person, comparable with the influence attached to a holding of 10% or more of the share capital or of the voting rights of that legal person.

(23) Applicants that are part of a group shall also submit information on parent undertakings, financial holding companies and mixed financial holding companies included in that group.

(24) Financial holding companies and mixed financial holding companies are equally subject to the provisions of paragraph 2(e), paragraph 14, Section 25(1) to (6), (9) and (11), and of Section 50(20).

## Section 7a

(1) Národná banka Slovenska shall discuss an application for a banking authorisation with the competent authorities, namely:

- (a) the supervisory authority of the Member State in which the foreign bank concerned is established, when a banking authorisation is to be granted under Section 7(8)(a) to (c);
- (b) the supervisory authority that is responsible for the supervision of insurance companies or investment firms in the Member State in which the foreign insurance company or investment firm concerned is established, when a banking authorisation is to be granted under Section 7(8)(d) to (f).

(2) Národná banka Slovenska shall discuss, with the competent supervisory authority of the Member State referred to in paragraph 1, the fitness and propriety of persons that are shareholders with a qualifying holding in a foreign bank, and the professional competence and good repute of natural persons who are members of the statutory bodies of persons referred to in paragraph 1(b).

(3) If, after being granted a banking authorisation, a bank is to become part of a consolidated group as defined in Sections 44 to 49, including a financial holding company, or part of a financial conglomerate as defined in Sections 49a to 49o, including a mixed financial holding company, the granting of a banking authorisation shall also be conditional upon the presentation of proof of the professional competence and good repute of natural persons who are members of the statutory body of the aforementioned financial holding company or mixed financial holding company.

(4) 'Professional competence' as mentioned in paragraph 3 means a person's extensive knowledge of the financial sector and experience in the field of finance. The good repute of persons as defined in paragraph 3 shall also be verified pursuant to Section 7(15) and (16).

### Section 7b

(1) An investment firm that meets the requirements set out in other legislation<sup>1ac</sup> and is authorised to provide investment services in accordance with other legislation,<sup>24aad</sup> shall submit to Národná banka Slovenska an application for banking authorisation in accordance with Section 7 no later than the date when the firm's average of monthly total assets, calculated over a period of 12 consecutive months reaches one of the following levels:

- (a) equal to or exceeding EUR 30,000,000,000; or
- (b) less than EUR 30,000,000,000 whereas this investment firm is part of a group in which the total value of the consolidated assets of companies in the group, each having total assets of less than EUR 30,000,000,000 while carrying on any of the activities specified in other legislation,<sup>1ad</sup> is equal to or exceeds EUR 30,000,000,000; in cases, asset values shall be calculated as the average over a period of 12 consecutive months.

(2) An investment firm under paragraph 1 may continue activities under other<sup>1ac</sup> until the granting of banking authorisation.

(3) If an investment firm's banking authorisation is withdrawn pursuant to Section 63(1)(h) and it meets the conditions of paragraph 1, it must reapply for banking authorisation. Národná banka Slovenska shall ensure that proceedings on the granting of banking authorisation based on an application under the first sentence are as simple as possible and take account of all information and documents submitted with the previous application for banking authorisation if they are relevant for the granting of authorisation in the present case.

### Section 8

(1) A decision to grant an authorisation to a foreign bank to conduct banking activities through its branch located in the territory of the Slovak Republic shall be made by Národná banka Slovenska. A foreign bank shall submit an application for a banking authorisation to Národná banka Slovenska.

(2) A banking authorisation shall not be issued under paragraph 1 unless the following conditions are proved to have been met:

- (a) the foreign bank concerned provides funding to its branch in a sufficient amount and of transparent origin in relation to the scope and risk exposure of the branch's business operations;

- (b) the foreign bank is of good repute and has adequate financial strength in relation to the scope of business operations of its branch;
- (c) the persons nominated by the foreign bank for the posts of head and deputy head of its branch, and chief internal control/audit officer are professionally competent and of good repute;
- (d) the foreign bank's business plan based on the strategy proposed for the activities of its branch is supported by realistic economic calculations;
- (e) the group with close links to which the foreign bank belongs is transparent;
- (f) the close links within the group mentioned in point (e) do not obstruct supervision;
- (g) the legal system and its application in the home country of the group mentioned in point (e) do not obstruct supervision;
- (h) the foreign bank seeking to operate in the territory of the Slovak Republic through its branch has its registered office, headquarters, and conducts a principal part of its activities in the same country;
- (i) the conditions equivalent to those for the issuance of an authorisation for investment services<sup>22a</sup> are met, as appropriate, in relation to the requested scope of investment services, investment activities, and ancillary services;
- (j) the conditions equivalent to those for the issuance of an authorisation to provide payment services<sup>22b</sup> are met, as appropriate, in relation to the requested scope of payment services;
- (k) the conditions equivalent to those for the issuance of an authorisation to issue electronic money<sup>22c</sup> are met, as appropriate, in relation to the requested issue of electronic money;
- (l) appropriate technical systems and procedures are in place for the proper performance of banking activities, and there are adequate resources, material and technical conditions for these activities;
- (m) there are adequate personnel and organisational conditions for the conduct of banking activities, a fully functional management and control system, including internal control and internal audit, a risk management system, and prudential rules and regulations.

(3) Národná banka Slovenska shall reject an application pursuant to paragraph 1 where the applicant fails to meet any of the conditions specified in paragraph 2. The reason for rejecting an application as referred to in paragraph 1 may not be the economic needs of the market.

(4) Before commencing the activities stated in its banking authorisation, a foreign bank branch shall demonstrate to Národná banka Slovenska compliance with the following conditions:

- (a) technical, organisational, and personnel preparedness to conduct banking activities under its authorisation, the existence of a management and control system at the branch, including an internal control and internal audit unit, and a system of risk management;
- (b) compliance with the requirements laid down in Section 27(13).

(5) A foreign bank branch may commence the activities stated in its banking authorisation on the basis of a written notification from Národná banka Slovenska acknowledging that the conditions set out in paragraph 4 have been met.

(6) A foreign bank branch shall meet the conditions specified in paragraphs 2 and 4 throughout the validity of its banking authorisation.

(7) A foreign bank shall submit, together with an application for a banking authorisation, a binding written statement from the supervisory authority of the country in which the foreign bank has its registered office concerning the establishment of a branch in the territory of the Slovak Republic, as well as a written promise from that supervisory authority that it will inform in writing Národná banka Slovenska in due time of any changes in the maintenance of own resources in respect to the requirements and liquidity and of other facts that may adversely affect the ability of the foreign bank to meet its obligations.

(8) In labelling its registered office and in written communication, a foreign bank branch shall always include in its name the words 'foreign bank branch'.

(9) In a decree<sup>23</sup> to be promulgated in the Collection of Laws, Národná banka Slovenska shall stipulate:

- (a) the elements of an application for a banking authorisation pursuant to paragraph 1 and documents to be attached to the application;
- (b) details of the conditions specified in paragraph 2 and details of how compliance with these conditions is to be demonstrated;
- (c) details of how compliance with the requirements set out in paragraph 4 is to be demonstrated.

(10) An application for a banking authorisation under paragraph 1 may not be rejected due to the legal form of the foreign bank not being joint-stock company.

### **Section 9**

(1) A banking authorisation shall be issued for an indefinite period and may not be transferred to another person, nor assigned to the holder's legal successor.

(2) A banking authorisation contains a precise definition of the banking activities permitted thereunder and may also state the conditions which a bank or a foreign bank branch must meet prior to commencing its authorised activities or which they must meet when conducting any authorised banking activity.

(3) A banking authorisation may restrict the scope or manner of performance of certain banking activities. At the request of a bank or a foreign bank branch, a banking authorisation may be extended by a decision to include other banking activities; the same applies to any extension of the restricted scope or manner of performance of banking activities.

(4) Banks shall inform in writing Národná banka Slovenska in advance of any change in the circumstances on the basis of which their banking authorisation was issued pursuant to Section 7; the prior approval of Národná banka Slovenska is to be required for electing or appointing a new member to the bank's statutory body or supervisory board, for appointing an authorised representative, for replacing a manager or the head of the bank's internal control and internal audit unit, as well as for changing the bank's registered office; otherwise such election, appointment or change will be invalid. Banks shall, as soon as is reasonably practicable after the occurrence of such event, inform Národná banka Slovenska in writing of the date when the office of a statutory body member or of a supervisory board member begins or ends. A precondition<sup>24b</sup> for an amendment to a bank's articles of association or for new articles of association (hereinafter 'amended articles') to enter into force and take effect will be approval by Národná banka Slovenska. No later than on the third working day after the bank decides to amend its articles of association, the bank shall deliver to Národná banka Slovenska a written application for the approval of Národná banka Slovenska for the amended articles, with the draft amendment attached, together with the full text of the articles of association before and after amendment. If a bank's articles of association are amended without the approval of Národná banka Slovenska, such amendment will be invalid. If, however, Národná banka Slovenska fails to settle an application within thirty days of the date of delivery of a complete application, the approval for the relevant amendment to the articles of association will be considered granted.

(5) Foreign banks and foreign bank branches shall inform in writing Národná banka Slovenska in advance of any change in the circumstances on the basis of which their banking authorisation was

issued pursuant to paragraph 8. The prior approval of Národná banka Slovenska is to be required for appointing a person as head of a foreign bank branch, as a manager, as chief internal control/audit officer, and for changing the registered office of a foreign bank branch, otherwise such appointment or change will be invalid.

(6) Banks and foreign bank branches shall submit a proposal to the competent court for the entry of their authorised activities into the Commercial Register on the basis of their banking authorisation within ten days of the date when the authorisation became legally effective.

### **Section 10**

A banking authorisation may not be issued where such authorisation would contradict an international agreement that is binding upon the Slovak Republic.

### **Section 11**

(1) A foreign bank established in a Member State may carry on, through its branch, banking activities in the territory of the Slovak Republic under Section 2(2), except for the activities mentioned in Section 2(2)(m), without a banking authorisation, if an authorisation to perform such activities has been granted to this foreign bank in its home Member State, on the basis of a written statement delivered by the competent supervisory authority of that Member State to Národná banka Slovenska.

(2) A foreign bank under paragraph 1 shall also be authorised to conduct banking activities pursuant to Section 2(2), except for the activities mentioned in Section 2(2)(m), even without establishing a branch, on the basis of a written notification of intended banking activities delivered by the competent supervisory authority of the Member State concerned to Národná banka Slovenska before the first banking transaction is carried out.

(3) The activities mentioned in Section 2(2), except for deposit-taking, may also be conducted in the territory of the Slovak Republic under paragraphs 1 and 2 by a foreign financial institution which is established in a Member State and which is a subsidiary of a bank or a foreign bank pursuant to paragraph 1; such foreign financial institution may perform such activities, provided its Sections of Association or Memorandum of Association allow them to be performed, under the following conditions:

- (a) the foreign bank or foreign banks are authorised to conduct banking activities in the territory of the Member State whose law governs the foreign financial institution concerned;
- (b) the foreign financial institution actually performs banking activities in the territory of the same Member State;
- (c) the foreign bank or foreign banks hold at least 90% of the voting rights of the foreign financial institution concerned;
- (d) the foreign bank or foreign banks ensure the sound and prudent management of the foreign financial institution and irrevocably assume joint and several liability for the obligations taken on by the foreign financial institution; the competent supervisory authority of the Member State concerned must approve the method of liability; and
- (e) the foreign financial institution is subject to consolidated supervision of a consolidated group of the foreign bank or foreign banks.

(4) A foreign financial institution shall document the facts mentioned in paragraph 3 to Národná banka Slovenska by a written attestation of the competent supervisory authority of the

Member State concerned. The provisions of Sections 16 to 18 and 20 apply *mutatis mutandis* to such foreign financial institution.

(5) A foreign bank that does not enjoy the benefits of a single banking authorisation according to the European Union's law, or a foreign bank established in a country that does not enjoy the benefits of a single banking authorisation according to the European Union's law, may not provide its services in the territory of the Slovak Republic through its branch without a banking authorisation.

(6) A foreign bank referred to in paragraph 1 may conduct banking activities as listed in Section 2(2)(m) only on the basis of a banking authorisation pursuant to Section 8.

(7) The provisions of Section 2(10), Section 3, Section 4(1), Section 6(8), first sentence, and (9), Section 7(8), Section 9(5), Section 22, and Section 28(1)(d), and Section 64 do not apply to a foreign bank pursuant to paragraph 1 where the foreign bank branch or its part is sold, and pursuant to Section 64. Nor do the provisions of Section 8 apply, except in cases specified in paragraph 6.

## Section 12

(1) Národná banka Slovenska shall, within two months of the date of receipt of a statement from the competent supervisory authority of the Member State concerned confirming that there are no reasons to doubt the organisational structure and financial situation of the foreign bank mentioned in Section 11(1), prepare to exercise supervision over the branch of this foreign bank, and, if necessary, shall advise it within this time limit of the conditions according to which the scheduled activities may or must be performed in the public interest within the territory of the Slovak Republic, and shall likewise advise it of the provisions of the legislation of general application of the Slovak Republic that will apply to its activities.

(2) Following the delivery of the statement under paragraph 1 or after a two-month period lapses without a response, the foreign bank and foreign bank branch mentioned in Section 11(1) may commence its banking activities in the territory of the Slovak Republic.

## Section 13

(1) A bank seeking to establish a branch in the territory of a Member State shall apply in writing to Národná banka Slovenska for permission to set up a branch in the territory of the Member State concerned. In the application, the bank shall specify:

- (a) the Member State in which it seeks to set up a branch;
- (b) the registered office of the branch in the Member State concerned;
- (c) the forenames and surnames of the persons responsible for managing the branch;
- (d) a business plan indicating in particular the contemplated activities and proposed strategy for the operations of the branch based on realistic financial calculations; and
- (e) the organisational structure of the branch.

(2) Národná banka Slovenska shall, if it has no reason to doubt the bank's organisational structure and financial situation in relation to the authorised banking activities, notify the competent supervisory authority of the Member State and the bank concerned of its decision to grant such permission within three months of the receipt of an application in due form pursuant to paragraph 1; at the same time, NBS shall notify the competent authority of the other Member State of the amount and composition of the bank's own funds, the amount and procedure for calculating the amount of the corresponding requirement for the bank's own funds, and details of the deposit protection system used in the Slovak Republic.

(3) If there are any doubts as to the facts mentioned in paragraph 2, Národná banka Slovenska shall, within three months of receipt of an application in due form pursuant to paragraph 1, notify the competent supervisory authority of the relevant Member State of its decision to refuse to grant permission.

(4) A bank shall notify in writing Národná banka Slovenska and the competent supervisory authority of the Member State concerned of any intended changes in the facts specified in paragraphs 1 and 2 at least thirty days before such changes take effect.

(5) Where a bank seeks to carry on, in the territory of a Member State, banking activities pursuant to Section 2(2), except for the banking activities mentioned in Section 2(2)(m), without establishing a branch, the bank in question shall notify Národná banka Slovenska in writing of its intended banking activities prior to the first transaction. Národná banka Slovenska shall send this notification to the competent supervisory authority of the Member State concerned within one month.

(6) Where a bank seeks to set up or acquire a financial institution in the territory of a Member State, it shall inform Národná banka Slovenska in writing of its intention to set up or acquire a financial institution and, at the same time, of the institution's activities.

(7) Where a financial institution established in the Slovak Republic as a subsidiary of a bank or two or more banks, carries on activities as specified in Section 2(2), except for deposit-taking, in a Member State and fails to comply with the conditions set out in Section 11(3)(a) to (e), Národná banka Slovenska shall without delay report these facts to the competent supervisory authority of the Member State concerned.

#### **Section 14**

(1) Supervision over a bank branch set up in the territory of a Member State shall be exercised by Národná banka Slovenska. The liquidity of this branch shall be supervised by the competent supervisory authority of the Member State concerned in cooperation with Národná banka Slovenska unless they agree otherwise. This branch is also subject to measures adopted by the relevant Member State as part of its monetary policy; in the case of countries that have introduced the euro as their currency, the branch is subject to measures adopted by the European Central Bank.

(2) Where the competent supervisory authority of a Member State notifies Národná banka Slovenska that a bank branch violates the law by its banking activities in the territory of that Member State, Národná banka Slovenska shall take the necessary measures to rectify the unlawful situation.

(3) Where a bank branch violates the law of a Member State by its banking activities in the territory of that Member State, the branch in question shall implement or suffer any measures imposed by the competent supervisory authority of the Member State concerned.

#### **Section 15**

When exercising supervision under Section 14 in regard to the monitoring of risks arising from financial market activities in the territory of a Member State, the Member State concerned may demand from a bank branch the same information as from banks with registered offices in its territory. The relevant Member State may request a bank that has a branch in its territory to deliver regular reports on its banking activities in its territory for statistical purposes. The bank shall comply with this request.



## Section 16

Supervision over a foreign bank branch under Section 11(1) in the territory of the Slovak Republic shall be exercised by the competent supervisory authority of the Member State concerned. In terms of liquidity, such branch shall be supervised by Národná banka Slovenska in cooperation with the competent supervisory authority of the Member State concerned, unless they agree otherwise. Supervision over the branch's compliance with obligations relating to the performance of depository activities under other legislation<sup>24ca</sup> and obligations relating to protection against money laundering and terrorist financing shall be exercised by Národná banka Slovenska.<sup>24d</sup> The organisational structure of a foreign bank branch must contain the employee responsible for the performance of depository activities<sup>24ca</sup> of the branch and the employee responsible for the protection against money laundering and terrorist financing, while responsibility for the proper performance of those employees' duties shall be borne by the head of the branch. This branch is also subject to the decrees of Národná banka Slovenska adopted as part of its monetary policy; after the euro changeover in the Slovak Republic, this branch is subject to the European Central Bank's regulations. The decrees of Národná banka Slovenska may not be discriminatory or restrictive. Where Národná banka Slovenska considers it necessary for the sake of financial stability in the Slovak Republic, Národná banka Slovenska may, after consultation with the competent supervisory authority of the Member State concerned, carry out an on-site inspection at the foreign bank branch in question and request information for supervisory purposes. After such inspection, Národná banka Slovenska shall report the information and findings revealed to the Member State's competent supervisory authority in order to facilitate the supervision of the foreign bank concerned.

## Section 17

(1) If Národná banka Slovenska finds that a foreign bank branch performing banking activities under Section 11(1) or a foreign bank performing banking activities under Section 11(2) in the territory of the Slovak Republic has violated the law or there is a justified risk of its non-compliance with the law, it shall forthwith inform the competent supervisory authority of the Member State in which the foreign bank in question has its registered office. If Národná banka Slovenska finds that the Member State's competent supervisory authority has failed to take measures to eliminate the violation of the law or to avert the risk of non-compliance with law, Národná banka Slovenska may request the European supervisory authority (European Banking Authority) to remedy the situation.

(2) Upon receipt of information from the competent supervisory authority of another Member State about the violation of the law by a bank or a bank branch carrying on banking activities in the territory of that Member State or about the existence of a justified risk of non-compliance with the law, Národná banka Slovenska shall take measures to eliminate the violation of the law to avert the risk of non-compliance with the law by the bank or bank branch in question. Národná banka Slovenska shall report this fact to the competent supervisory authority of the Member State concerned.

(3) If, in a matter allowing no delay, the competent supervisory authority of the Member State concerned fails to take measures pursuant to paragraph 1 or reorganisation measures under Section 53(9), Národná banka Slovenska may take preventive measures to protect the clients of the foreign bank branch referred to in paragraph 1 or those of the foreign bank mentioned in paragraph 1, including the suspension of payment operations<sup>24e</sup> in deposits. These preventive measures may not give any preferential treatment to the creditors of the foreign bank branch referred to in paragraph 1 or of the foreign bank mentioned in paragraph 1. Národná banka Slovenska shall forthwith report these measures to the European Commission (hereinafter the 'Commission'), the European

supervisory authority (European Banking Authority), and to the competent supervisory authority of the Member State in which the foreign bank has its registered office. If the Member State's competent supervisory authority takes preventive measures but Národná banka Slovenska has objections to these measures, Národná banka Slovenska may request assistance from the European supervisory authority (European Banking Authority) under other legislation.<sup>19</sup>

(4) If the competent supervisory authority of the Member State concerned takes reorganisation measures under Section 53(9), the preventive measures taken by Národná banka Slovenska pursuant to paragraph 3 shall become ineffective and shall be therefore cancelled by Národná banka Slovenska. If the Member State's competent supervisory authority fails to take reorganisation measures under Section 53(9) and the preventive measures taken by Národná banka Slovenska lose their justification, Národná banka Slovenska shall cancel these measures.

### **Section 18**

(1) Národná banka Slovenska may demand, for statistical and informational purposes, that a foreign bank as referred to in Section 11(1), performing banking activities through its branch or without establishing a branch in the territory of the Slovak Republic, deliver regular reports on its operations in the territory of the Slovak Republic.

(2) For the purpose of determining whether a foreign bank branch is significant under Section 6(14) and for supervisory purposes under Section 16, Národná banka Slovenska shall be authorised to demand that a foreign bank branch as mentioned in Section 11(1) deliver reports, statements, and other data in accordance with Section 42(2) and (3).

### **Section 19**

(1) Where a bank's authorisation is withdrawn, Národná banka Slovenska shall, without delay, inform the competent supervisory authority of the Member State in which the bank concerned has a branch.

(2) Národná banka Slovenska shall inform the Commission, the European supervisory authority (European Banking Authority), and the European Banking Committee of the number and nature of cases where it refused to send information about the establishment of a branch in the territory of a Member State to the competent supervisory authority of that Member State.

(3) Národná banka Slovenska shall notify the Commission, the European supervisory authority (European Banking Authority), and the European Banking Committee of the issuance or withdrawal of a bank's authorisation to set up a branch outside the territory of its home Member State, or of the issuance or withdrawal of an authorisation of a foreign bank established outside the territory of its home Member State to establish a branch in the Slovak Republic.

(4) Národná banka Slovenska shall notify the Commission, the European supervisory authority (European Banking Authority), and the European Banking Committee that a bank is or will become a subsidiary of a foreign bank that is subject to the law of a country that is not a Member State of the European Union. At the same time, Národná banka Slovenska shall provide information about the structure of the consolidated group to which the bank belongs or will belong.

(5) Národná banka Slovenska shall notify the Commission of any difficulties that have occurred in connection with the establishment of a bank or a bank branch in a country that is not a Member State, or in the course of its operations.

(6) Národná banka Slovenska shall notify the Commission and the European supervisory authority (European Banking Authority) of the terms and conditions for the issuance of a banking authorisation under Sections 7 and 8.

(7) Národná banka Slovenska shall notify the European supervisory authority (European Banking Authority) of the issuance of each banking authorisation under Sections 7 and 8, as well as of the withdrawal of a banking authorisation under Section 50(1)(k).

## **Section 20**

Foreign banks with a registered office in a Member State may freely advertise their banking services rendered in the Slovak Republic in accordance with the law of the Slovak Republic.

## **Section 20a**

### **Approval to perform activities of a financial holding company and mixed financial holding company**

(1) The performance of activities of a financial holding company and mixed financial holding company requires an approval of Národná banka Slovenska. An application for the approval referred to in the first sentence shall be submitted to Národná banka Slovenska.

(2) The application referred to in paragraph 1 shall be submitted to Národná banka Slovenska by:

- (a) the parent financial holding company established in the Slovak Republic or the parent mixed financial holding company established in the Slovak Republic;
- (b) the EU parent financial holding company or the EU parent mixed financial holding company;
- (c) a financial holding company which is obliged to observe this Act or other legislation<sup>30x</sup> on a sub-consolidated basis or a mixed financial holding company which is obliged to observe this Act or other legislation<sup>30x</sup> on a sub-consolidated basis; or
- (d) a financial holding company which is not the parent undertaking or a mixed financial holding company which is not the parent undertaking, if it is obliged to observe this Act or other legislation<sup>30x</sup> on a sub-consolidated basis.

(3) The application referred to in paragraph 1 shall include the following information:

- (a) the structural organisation of the group of which the financial holding company or mixed financial holding company is part, indicating its subsidiaries and parent undertakings, and the location and type of activity undertaken by each of the entities within the group;
- (b) information regarding the professional competence and good repute of at least two natural persons in the management of the financial holding company or mixed financial holding company; professional competence and good repute of these persons is governed by the provisions of Section 7(15) and (16) and Section 7a(4);
- (c) information regarding compliance with the provisions of Section 7(2)(c) and Section 28 concerning shareholders of the bank that is a subsidiary of the financial holding company or mixed financial holding company;
- (d) the internal organisation and distribution of tasks within the group.

(4) Approval may be granted pursuant to paragraph 1 only where all of the following conditions are met:

- (a) the internal arrangements and distribution of tasks are adequate for the purpose of complying with the requirements laid down in this Act and in other legislation<sup>30x</sup> on a consolidated or sub-consolidated basis and, in particular, are effective to:
  - 1. coordinate all the subsidiaries of the financial holding company or mixed financial holding company including, where necessary, through an adequate distribution of tasks among subsidiary banks;
  - 2. prevent or solve intra-group conflicts; and
  - 3. enforce the group-wide policies set by the parent financial holding company or parent mixed financial holding company.
- (b) the structural organisation of the group of which the financial holding company or mixed financial holding company is part does not obstruct the effective supervision of the subsidiary bank or parent bank on an individual, consolidated, or sub-consolidated basis, taking into account, in particular:
  - 1. the position of the financial holding company or mixed financial holding company in a multi-layered group;
  - 2. the shareholding structure; and
  - 3. the role of the financial holding company or mixed financial holding company within the group; and
- (c) the fitness and propriety of persons that are shareholders with a qualifying holding in the bank, and the professional competence and good repute of natural persons who are statutory body members and supervisory board members of the financial holding company or mixed financial holding company; professional competence and good repute shall be verified in accordance with Section 7(15) and (16) and Section 7a(4).

(5) Národná banka Slovenska shall reject an application referred to in paragraph 1 where the applicant fails to meet any of the conditions specified in paragraph 4. The reason for rejecting an application in accordance with paragraph 1 may not be the economic needs of the financial market.

(6) Financial holding companies or mixed financial holding companies shall meet the conditions specified in paragraph 4 throughout the validity of the approval referred to in paragraph 1.

(7) Where the proceedings to grant an approval referred to in paragraph 1 take place simultaneously with the proceedings under Section 28(1)(a), Národná banka Slovenska shall cooperate with the supervisory authority of the Member State in which the financial holding company or mixed financial holding company concerned is established. The lapsing of the period under the third sentence of Section 28(21) shall be suspended for 20 working days or more, until the approval referred to in paragraph 1 is issued at the latest.

(8) The approval referred to in paragraph 1 shall not be required where all of the following conditions are met:

- (a) the financial holding company's principal activity is to acquire holdings in subsidiaries or, in the case of a mixed financial holding company, its principal activity with respect to institutions or financial institutions is to acquire holdings in subsidiaries;
- (b) the financial holding company or mixed financial holding company has not been designated as a resolution entity pursuant to other legislation<sup>62</sup> in any of the group's resolution groups;
- (c) a subsidiary bank is designated as responsible to ensure the group's compliance with prudential requirements on a consolidated basis and is given all the necessary means and legal authority to discharge those obligations in an effective manner;
- (d) the financial holding company or mixed financial holding company does not engage in taking management, operational or financial decisions affecting the group or its subsidiaries that are banks or financial institutions; and

(e) there is no impediment to the effective supervision of the group on a consolidated basis.

(9) Financial holding companies or mixed financial holding companies that meet the conditions specified in paragraph 8 shall not be excluded from the perimeter of consolidation as laid down in this Act or in other legislation.<sup>30x</sup>

(10) For the purposes of exercising supervision on a consolidated or sub-consolidated basis, the term bank, parent bank, EU parent bank, and parent undertaking shall also include:

- (a) financial holding companies and mixed financial holding companies that have been granted approval in accordance with paragraph 1;
- (b) banks designated pursuant to paragraph 8(c) controlled by an EU parent financial holding company, an EU parent mixed financial holding company, a parent financial holding company or a parent mixed financial holding company where the relevant parent meets the conditions specified in paragraph 8;
- (c) financial holding companies, mixed financial holding companies or banks designated pursuant to paragraph 20b(2)(d).

(11) *Národná banka Slovenska* as the consolidating supervisor shall monitor compliance with the conditions referred to in paragraph 4 or paragraph 8. Financial holding companies and mixed financial holding companies shall provide, upon request, to *Národná banka Slovenska* as the consolidating supervisor with the information required monitor on an ongoing basis the structural organisation of the group and compliance with the conditions referred to in paragraph 4 or paragraph 8. *Národná banka Slovenska* as the consolidating supervisor shall share that information with the competent authority in the Member State where the financial holding company or the mixed financial holding company is established.

(12) Where *Národná banka Slovenska* as the consolidating supervisor has established that a financial holding company or mixed financial holding company no longer meets the conditions set out in paragraph 8, the financial holding company or mixed financial holding company shall, without delay, seek approval in accordance with paragraph 1.

(13) Where *Národná banka Slovenska* is the consolidating supervisor and the financial holding company or mixed financial holding company is established in another Member State, *Národná banka Slovenska* shall, for the purposes of taking decisions on the approval referred to in paragraph 1 and exemption from approval referred to in paragraph 8, and the corrective measures referred to in Section 20b, work together in full consultation with the competent supervisory authority of that Member State. As part of the cooperation with the competent supervisory authority as referred to in the first sentence, *Národná banka Slovenska* shall prepare an assessment of the matters referred to in paragraphs 4, 8, 12, and in Section 20b, as applicable, and shall forward that assessment to the competent supervisory authority referred to in the first sentence, and proceed in a way so as to ensure that, upon agreement with the competent supervisory authority, it adopts a decision within two months of receipt of that assessment. The joint decision shall be duly documented and reasoned. *Národná banka Slovenska* as the consolidating supervisor shall communicate the joint decision to the financial holding company or mixed financial holding company.

(14) In the event of a disagreement with the competent supervisory authority in the Member State where the financial holding company or mixed financial holding company is established, *Národná banka Slovenska* shall refrain from taking a decision and shall, in accordance with other legislation,<sup>19</sup> refer the matter to the European supervisory authority (European Banking Authority) with a request to adopt a decision within two months of receipt of the assessment referred to in paragraph 13 or before a joint decision has been reached.

(15) Where Národná banka Slovenska is not the consolidating supervisor and the financial holding company or mixed financial holding company is established in the Slovak Republic, Národná banka Slovenska shall do everything within its power to reach an agreement with the competent consolidating supervisor and adopt a joint decision.

(16) In the case of mixed financial holding companies where Národná banka Slovenska is not the authority that exercises supplementary supervision under Sections 49a to 49o or under other legislation,<sup>24f</sup> decisions taken in accordance with paragraphs 1, 8 or 13 and decisions on imposing corrective measures under Section 20b require a consent of the competent authority exercising supplementary supervision.

(17) Where a foreign supervisory authority under Sections 49a to 49o or under other legislation<sup>24f</sup> fails to adopt a decision in accordance with paragraph 16, Národná banka Slovenska shall refer the matter to the relevant European supervisory authority (European Banking Authority or European Insurance and Occupational Pensions Authority) and request its assistance in reaching an agreement in the matters referred to in paragraph 16. Decisions adopted under this paragraph shall be without prejudice to the requirements set out in this Act or in other legislation.<sup>24g</sup>

(18) Where Národná banka Slovenska rejects an application under paragraph 1, it shall notify the applicant under paragraph 2 of the decision and the reasons therefor within four months of receipt of the complete application. Decisions on applications under paragraph 1 shall be adopted no later than six months of receipt of such applications.

(19) In a decree<sup>23</sup> promulgated in the Collection of Laws, Národná banka Slovenska shall specify:

- (a) the elements of an application for approval in accordance with paragraphs 1 and 2, including the documents to be attached to this application;
- (b) the details of the conditions specified in paragraph 4 and the means of demonstrating compliance with these conditions;
- (c) other information and documents necessary to assess compliance with the conditions specified in paragraph 4 and 8.

### **Section 20b**

#### **Corrective measures and fines for financial holding companies or mixed financial holding companies**

(1) Where Národná banka Slovenska as the consolidating supervisor finds any shortcomings consisting in a failure to comply with the conditions specified in Section 20a(4), it shall impose on a financial holding company or mixed financial holding company corrective measures and sanctions in accordance with paragraph 2, with the aim of ensuring or restoring continuity and integrity of supplementary supervision, and ensuring compliance on a consolidated basis with the requirements laid down in this Act or in other legislation.<sup>30x</sup> In the case of mixed financial holding companies, the adopted corrective measures shall, in particular, take into account the effects on the financial conglomerate.

(2) Where Národná banka Slovenska as the consolidating supervisor finds any shortcomings under paragraph 1 or shortcomings consisting in a failure to comply with the conditions specified in the decision on approval under Section 20a(1), conditions or obligations specified in other decisions of Národná banka Slovenska imposed on a financial holding company or mixed financial holding company, conditions specified in Section 20a, or non-compliance with or circumvention of other

provisions of this Act, legally binding acts of the European Union pertaining to banking activities, other legislation,<sup>46</sup> or other legislation of general application governing the conduct of banking operations, Národná banka Slovenska may, depending on the gravity, scope, duration, consequences, and nature of detected shortcomings:

- (a) suspend the exercise of voting rights attached to the shares of a bank that is a subsidiary held by the financial holding company or mixed financial holding company;
- (b) impose on the financial holding company or mixed financial holding company, statutory body members or supervisory board members, or upon managers a fine of EUR 3,300 to EUR 664,000; this shall be without prejudice to the provisions of Section 50;
- (c) require or recommend the financial holding company or mixed financial holding company to transfer to its shareholders the participations in its subsidiaries that are banks;
- (d) designate on a temporary basis another financial holding company, mixed financial holding company, or bank within the group as responsible for ensuring compliance on a consolidated basis with the requirements laid down in this Act or in other legislation;<sup>30x</sup>
- (e) restrict or prohibit distributions under other legislation<sup>24h</sup> to shareholders;
- (f) require financial holding companies or mixed financial holding companies to reduce holdings in a bank or other financial sector entities or to transfer holdings in a bank or other financial sector entities to another person;
- (g) require financial holding companies or mixed financial holding companies to submit a plan on return, without delay, to compliance with the requirements laid down in this Act;
- (h) impose other corrective measures than those mentioned in points (a) to (g) in order to eliminate any identified shortcomings.

(3) Národná banka Slovenska shall, as appropriate, also use the supervisory powers specified in Sections 50 and 63(1) and (2) when exercising supervision over financial holding companies and mixed financial holding companies.

(4) Decisions to reject an application for approval under Section 20a(1) shall be without prejudice to the imposition of corrective measures under paragraph 2.

### **Section 20c** **Intermediate EU parent undertaking**

(1) Two or more institutions in the European Union, which are part of the same third-country group, shall have a single intermediate EU parent undertaking that is established in the European Union, unless paragraph 2 provides otherwise.

(2) Národná banka Slovenska may allow the institutions referred to in paragraph 1, which perform their activities in the territory of the Slovak Republic, to have two intermediate EU parent undertakings where it determines that the establishment of a single intermediate EU parent undertaking would:

- (a) be incompatible with a mandatory requirement for separation of activities imposed by the rules or supervisory authorities of the third country where the parent undertaking of the third-country group is established; or
- (b) render resolvability less efficient than in the case of two intermediate EU parent undertakings according to an assessment carried out by the Resolution Council<sup>30zx</sup> (hereinafter the 'Council').

(3) An intermediate EU parent undertaking shall only be a bank or financial holding company that has been granted approval in accordance with Section 20a or a similar legal provision of another Member State, or a mixed financial holding company that has been granted approval in accordance with Section 20a or a similar legal provision of another Member State, unless paragraph 4 provides

otherwise. Where none of the institutions referred to in paragraph 1 is a bank or where a second intermediate EU parent undertaking must be set up in connection with investment activities to comply with the mandatory requirement referred to in paragraph 2, the intermediate EU parent undertaking or the second intermediate EU parent undertaking may be an investment firm that is subject to other legislation.<sup>62</sup>

(4) Paragraphs 1 to 3 do not apply where the total value of assets in all Member States of the third-country group is less than EUR 40,000,000,000.

(5) For the purposes of paragraphs 4, 6, 7, and Section 122yc, the total value of assets in all Member States of the third-country group shall be the sum of the following:

- (a) the total value of assets of each institution in all Member States of the third-country group, as resulting from its consolidated balance sheet or as resulting from their individual balance sheet, where an institution's balance sheet is not consolidated; and
- (b) the total value of assets of each branch of a third-country group institution authorised in accordance with this Act, other legislation,<sup>24i</sup> or in accordance with legal provisions of another Member State.

(6) Národná banka Slovenska shall notify the following information in respect of each third-country group carrying out its activities in the territory of the Slovak Republic to the European supervisory authority (European Banking Authority):

- (a) the names and the total value of assets of institutions supervised by Národná banka Slovenska belonging to a third-country group;
- (b) the names and the total value of assets corresponding to all branches of a third-country group institution authorised in accordance with this Act or with other legislation,<sup>24i</sup> and the types of activities that they are authorised to carry out;
- (c) the name and the type as referred to in paragraph 3 of each intermediate EU parent undertaking established in the Slovak Republic and the name of the third-country group of which it is part.

(7) Banks performing activities in the territory of the Slovak Republic that are part of a third-country group shall meet one of the following conditions:

- (a) they have an intermediate EU parent undertaking;
- (b) they are an intermediate EU parent undertaking;
- (c) they are the only institution in the European Union of the third-country group; or
- (d) they are part of a third-country group with a total value of assets in all Member States of less than EUR 40,000,000,000.

(8) For the purposes of this section and Section 122yd(2), the status of an institution also applies to an investment firm as defined in other legislation,<sup>24j</sup> which has been granted authorisation under the jurisdiction of another Member State.

## **DIVISION FOUR THE REPRESENTATIVE OFFICE OF A BANK OR A FOREIGN BANK**

### **Section 21**

(1) Banks shall notify Národná banka Slovenska in writing of their intention to establish a representative office abroad. Such notification must contain the following data:

- (a) the address of the representative office;
- (b) the forename and surname and permanent address of the head of this representative office.



(2) For the purposes of this Act, ‘representative office of a bank’ means an organisational unit of a bank that promotes the bank’s operations abroad or gathers information about the possibilities of economic cooperation abroad.

(3) A representative office of a bank may not conduct banking activities or do business in any other way.

## Section 22

(1) A foreign bank or a similar foreign financial institution engaged in banking activities may establish a representative office in the territory of the Slovak Republic on the basis of registration. A decision on registration shall be made by Národná banka Slovenska on the basis of an application for registration.

(2) For the purposes of this Act, ‘representative office of a foreign bank or of a similar foreign financial institution’ (hereinafter ‘foreign representative office’) means an organisational unit that promotes the activities of a foreign bank or a similar foreign financial institution or gathers information about the possibilities of economic cooperation with the Slovak Republic. A foreign representative office shall use the designation ‘representative office’ in the business name of its registered office, as well as in correspondence.

(3) A foreign representative office may not conduct banking activities or do business in any other way. A foreign representative office shall not be entered into the Commercial Register.

(4) A foreign bank or a similar foreign financial institution engaged in banking activities shall notify in writing Národná banka Slovenska in advance of any change in the location of its foreign representative office, of any replacement of the head of its foreign representative office, or of the closure thereof. Before the head of a foreign representative office is replaced, the financial institution concerned shall submit all documents a foreign bank or a similar foreign financial institution is required to submit when applying for the registration of a representative office.

(5) The head of a foreign representative office may perform, on behalf of a foreign bank or a similar foreign financial institution, solely employment-related acts in relation to the other employees of this foreign representative office.

(6) The elements of an application for the registration of a foreign representative office shall be specified in a decree<sup>23</sup> issued by Národná banka Slovenska and promulgated in the Collection of Laws.

(7) Within 30 days of its registration, a foreign representative office shall advise Národná banka Slovenska in writing of the bank or foreign bank branch where its accounts are maintained.

(8) A foreign representative office shall, within 30 days, notify Národná banka Slovenska in writing of any change that have occurred in the facts constituting the basis for its registration.

(9) Národná banka Slovenska is authorised to verify compliance with the conditions specified in registration decisions and stipulated by the laws and legislation of general application of the Slovak Republic. A foreign representative office shall cooperate with Národná banka Slovenska during such inspections.

(10) Where a foreign representative office fails to meet the conditions specified in the decision on its registration or violates any laws or other legislation of general application of the Slovak Republic, Národná banka Slovenska may decide to cancel its registration.

(11) The registration of a foreign representative office shall expire on the day specified in a written notice from a foreign bank or a similar foreign financial institution engaged in banking activities about the closure of its foreign representative office, or on the day when the foreign bank or similar foreign financial institution engaged in banking activities is dissolved.

## **DIVISION FIVE ORGANISATION AND MANAGEMENT OF A BANK OR A FOREIGN BANK BRANCH**

### **Section 23**

(1) The articles of association of a bank shall regulate, apart from the elements specified in other legislation,<sup>25</sup> the bank's organisational structure and management system so as to ensure the proper and secure performance of banking activities in line with the bank's authorisation and to prevent a conflict of interests arising within the bank. They shall also regulate the relations and cooperation between the bank's statutory body, supervisory board, managers, and its internal control and internal audit unit. Furthermore, a bank shall extend its articles of association under this Act to include the principles of remuneration, which are taken into account in the bank's risk management system, support that system, and comply with the principle of equal treatment laid down in other legislation.<sup>27fbc</sup> The articles of association shall also cover the activities of the bank's remuneration committee if established or the activities of the person responsible for the bank's remuneration system. In its articles of association, a bank shall also separate and regulate the powers and responsibilities within the bank for:

- (a) the setting, implementation, monitoring, and oversight of the bank's business objectives;
- (b) the bank's management system in regard to compliance with the rule laid down in Section 27(1)(d);
- (c) the internal control system, including a separate and independent internal control and internal audit unit corresponding to the complexity of banking activities and the risks involved;
- (d) risk management conducted independently and separately from banking activities, including a management system for the risks to which the bank is or could be exposed, and for the activities of the risk management committee;
- (e) the conduct of credit transactions separately from investment transactions in accordance with Section 34;
- (f) separate monitoring of the risks to which the bank is exposed when performing banking activities vis-à-vis persons in a special relationship with the bank;
- (g) the information system;
- (h) protection against money laundering and terrorist financing;
- (i) the activities of the bank's remuneration committee.

(2) In their internal regulations, banks shall lay down the details of:

- (a) their organisational structure as referred to in paragraph 1, with emphasis on the identification of the persons responsible for the performance of banking activities within the bank;
- (b) their internal control system, including an internal control and internal audit unit;
- (c) the preparation and implementation of a plan for their recovery (hereinafter a 'recovery plan') and of the method of its updating.

(3) Through their internal control system and in order to prevent losses or damage resulting from deficient management, banks shall ensure the performance of:

- (a) control activities as part of their operating work procedures and the implementation of remedial measures based on the results of control activities in the individual organisational units, while these activities and measures shall be carried out by:
  - 1. the bank's employees or organisational units that participate in the individual operating work procedures;
  - 2. the managers of the bank's different organisational units who are responsible for the checked processes and for the results of such checks, or employees authorised by them;
- (b) oversight conducted independently of the operating work procedures by the bank's internal control and internal audit unit; in exceptional and predetermined cases, a check may be carried out as part of the bank's operating work procedure, provided that independence is maintained and conflicts of interest are excluded.

(4) The internal control and internal audit unit of a bank shall carry out regular reviews of compliance with the laws and other legislation of general application, as well as with the bank's internal regulations and procedures; it shall review and evaluate in particular the functionality and effectiveness of the bank's management and control system, risk management system, the system of own capital adequacy assessment, the maintenance of own funds in relation to the own funds requirements and liquidity, and compliance with the asset exposure limits; it shall also review and evaluate the bank's preparedness in terms of risk management to conduct new types of transactions, the principles of remuneration that are taken into account in the risk management system, and the information referred to in Section 37. The internal control and internal audit unit shall be responsible for monitoring the elimination of shortcomings and for monitoring the implementation of approved proposals and recommendations for the rectification of shortcomings. Responsibility for the establishment and functionality of the internal control and internal audit unit shall be borne by the bank's statutory body; this responsibility may not be transferred to another person. The internal control and internal audit unit shall report directly to the bank's statutory body or supervisory board, or to a member of the bank's statutory body or supervisory board.

(5) A bank shall maintain an organisational structure complying with the requirements of this Act and other legislation of general application.

(6) For the purposes of this Act, the following definitions apply:

- (a) 'risk' means a possible loss or damage caused by a bank's own activities or caused to the bank by other circumstances; for the purposes of this Act, risks are classified according to type as follows:
  - 1. credit risk, meaning the risk that a borrower or other contracting party may fail to discharge their liabilities; credit risk includes country risk, concentration risk, settlement risk, and counterparty risk;
  - 2. market risk, arising from the bank's positions and caused by changes in the values of risk factors, which are usually determined by the market; the main components of market risk are interest rate risk, equity risk, foreign exchange risk, and commodity risk, by means of which market risk is measured;
  - 3. operational risk as defined in other legislation;<sup>25aa</sup>
  - 4. liquidity risk, meaning the risk that a bank may be unable to meet its liabilities when they mature;
  - 5. systemic risk, meaning the risk of an impact on the stability of the financial system with serious consequences for the financial system and national economy of the Slovak Republic;

6. model risk, meaning the risk of loss being incurred by a bank as a result of decisions based on the results of internal approaches, due to errors made during their preparation, implementation or application;
  7. the risk of excessive use of leverage;
  8. interest rate risk arising from non-trading book activities, meaning the current or prospective risk to both the earnings and the economic value of a bank arising from adverse movements in interest rates that affect the interest rate sensitive instruments, including risk resulting from the term structure of interest rate sensitive instruments that arises from differences in the timing of their rate changes), basis risk, and option risk;
- (b) ‘risk management’ means the prevention of possible losses, including damage, through timely and appropriate risk identification, risk measurement, risk monitoring, and risk mitigation;
  - (c) ‘risk management system’ means a system ensuring timely and appropriate risk identification, risk measurement, risk monitoring, risk mitigation, and adequate reporting of all significant risks; a bank’s risk management system includes its risk management strategy and organisation, information flows, risk management information system, transaction origination system, internal capital adequacy assessment system, and its system for introducing new types of transactions;
  - (d) ‘internal capital’ means the funds that a bank, on the basis of its own risk definition and assessment, maintains internally and allocates for risk coverage;
  - (e) ‘central counterparty’ means central counterparty as defined in other legislation;<sup>25ac</sup>
  - (f) ‘credit risk mitigation’ means credit risk mitigation as defined in other legislation;<sup>25ad</sup>
  - (g) ‘internal approach’ means internal approach as defined in other legislation.<sup>25ae</sup>

(7) After making any change in its articles of association, a bank shall forthwith submit a copy of the latest version of the articles of association to Národná banka Slovenska.

(8) A bank may establish a foreign branch only with the prior approval of Národná banka Slovenska, issued on the basis of a request made by the bank.

(9) In a decree<sup>23</sup> promulgated in the Collection of Laws, Národná banka Slovenska shall specify:

- (a) the details of a bank’s organisational structure and management system in accordance with paragraph 1;
- (b) the details of a bank’s internal control system in accordance with paragraph 3, the details of the activities and responsibilities of a bank’s internal control and internal audit unit, as well as the scope, number and dates of audits carried out by this unit;
- (c) what is meant by ‘significant risk’ for the purpose of risk management;
- (d) the extent to which a foreign bank branch is subject to the requirements laid down in points (a) and (b);
- (e) the elements of an application for prior approval in accordance with paragraph 8, including the documents to be attached to this application;
- (f) the details of the application of remuneration principles as defined in Sections 23a and 23b;
- (g) repealed as from 29 December 2020.

(10) For the purposes of ensuring due and secure conduct of the authorised banking activities and preventing conflicts of interest within a bank, banks are required to keep record of and, upon request of Národná banka Slovenska, provide information on loans granted to statutory body members and supervisory board members, and to any persons closely associated with them; ‘closely associated person’ means a spouse, child, or parent of a statutory body member or supervisory board member, or a legal person in which a statutory body member or supervisory board member, or their spouse, child, or parent has a qualifying holding or holds an executive managerial position or is a member of its statutory body or supervisory board.

**Section 23a**

(1) Banks shall apply the remuneration principles defined in this Act in relation to all persons whose professional activities have a material impact on the bank's risk profile; this shall be done in a manner that is appropriate to the nature, scope and complexity of their activities:

- (a) all members of the statutory body;
- (b) all members of the supervisory board;
- (c) managers;
- (d) employees with managerial responsibility over the bank's control functions or material business units who meet the criteria specified in other legislation issuing a regulatory technical standard adopted in accordance with other legislation;<sup>13o</sup>
- (e) employees entitled to significant remuneration for the preceding accounting period, provided that the following conditions are met:
  - 1. the employee's remuneration is equal to or greater than EUR 500,000 and equal to or greater than the average remuneration awarded to the persons referred to in points (a) to (c);
  - 2. the employee performs the professional activity within a material business unit specified in other legislation issuing a regulatory technical standard adopted in accordance with other legislation<sup>13o</sup> and the activity is of a kind that has a significant impact on the relevant business unit's risk profile pursuant to other legislation issuing a regulatory technical standard adopted in accordance with other legislation;<sup>13o</sup>
- (f) other employees not listed in points (a) to (e) whose professional activities have an impact on the bank's risk profile and who are designated in accordance with other legislation issuing a regulatory technical standard adopted in accordance with other legislation.<sup>13o</sup>

(2) In accordance with the remuneration principles referred to in paragraph 1, banks shall apply the following remuneration components:

- (a) a guaranteed fixed remuneration component, specifically:
  - 1. a basic component of compensation for employees;
  - 2. a fixed remuneration component for statutory body members and supervisory board members;
- (b) a variable remuneration component.

(3) In applying the remuneration principles referred to in paragraph 1, banks shall comply with the general principles specified in paragraphs 4 to 7.

(4) The remuneration principles referred to in paragraph 1 shall:

- (a) be consistent with sound and effective risk management system that does not encourage risk-taking that exceeds the level of tolerated risk of the bank;
- (b) be in line with the bank's business strategy, values, and long-term objectives;
- (c) incorporate measures to avoid conflicts of interest;
- (d) be consistent with the principle of equal treatment laid down in other legislation.<sup>27fbc</sup>

(5) The internal control and internal audit unit shall, at least once a year, verify the application of the remuneration principles referred to in paragraph 1 adopted by the bank's supervisory board in accordance with Section 24(4).

(6) Employees of the bank's internal control and internal audit unit who are subject to the remuneration principles referred to in paragraph 1 shall be remunerated in accordance with the achievement of the objectives linked to their functions, independent of the performance of the bank's business areas they control.

(7) The remuneration principles referred to in paragraph 1 shall make a distinction between criteria for setting:

- (a) the guaranteed fixed remuneration component, which is to reflect the professional competence and responsibility within the bank's organisation and management as set out in the job description of the person referred to in paragraph 1; and
- (b) the variable remuneration component, which is to reflect a sustainable and risk adjusted performance within the bank's organisation and management of the person referred to in paragraph 1, as well as performance in excess of that required under their job description.

(8) For the purposes of applying the remuneration principles, banks that are considered significant due to their size, internal organisation and the nature, scope and complexity of their activities shall mean banks that meet the following criteria:

- (a) global systemically important institutions under Section 33a(1)(b); or
- (b) other systemically important institutions under Section 33a(1)(c).

(9) Banks that have received stabilisation assistance from the state budget to mitigate the impacts of the global financial crisis are also required to apply the remuneration principles to:

- (a) the variable remuneration components referred to in paragraph 1, not exceeding 1% of the net income, where they are inconsistent with the bank's business strategy, interests, and with the period of stabilisation assistance;
- (b) adjustments to the structure of variable remuneration components and, if needed, to the setting of limits for the remuneration of statutory body members and supervisory board members at the request of Národná banka Slovenska, in compliance with the principles of risk management;
- (c) the variable remuneration components payable to statutory body members and to supervisory board members, which are approved for the period under review only if they are justified.

### **Section 23b**

(1) In addition to the general principles referred to in Section 23a(4) to (7), the variable remuneration component is also subject to the principles specified in paragraphs 2 to 18.

(2) Where remuneration is performance related, the variable component of total remuneration shall be based on a combination of the assessment of the performance of the person concerned as referred to in Section 23a(1) and of the bank's relevant business unit and of the overall results of the bank; when assessing individual performance of the persons referred to in Section 23a(1), financial as well as non-financial criteria are to be taken into account.

(3) The assessment of performance shall be set in a multi-year framework in order to ensure that the assessment process is based on the bank's long-term business strategy. The payment of performance-based variable remuneration components shall be spread over a period which takes account of the bank's current business cycle and the risks directly associated with the bank's business activities.

(4) The total amount of the variable remuneration component shall take into account the bank's ability to meet the obligations set out in Section 29.

(5) Where a bank meets the obligations set out in Section 29, any person mentioned in Section 23a(1) being trained for independent work may be exceptionally paid variable remuneration in a guaranteed amount over a period of up to one year, from the conclusion of an employment contract with the bank, regardless of the performance assessment results. Variable remuneration in a

guaranteed amount shall not depend on risk management or performance or be part of the bank's future remuneration plans.

(6) There must be an appropriate balance between the guaranteed fixed remuneration and variable remuneration of any person referred to in Section 23a(1). The variable remuneration component may not exceed the guaranteed fixed remuneration component. The guaranteed fixed remuneration component must represent a sufficiently large proportion of the total remuneration to enable a flexible policy to be pursued in the area of variable remuneration, including the option to pay no variable remuneration. Guaranteed fixed remuneration is to be determined according to the professional competence and responsibility within the bank's organisation and management of the person concerned as referred to in Section 23a(1).

(7) Contractual severance payments payable to persons as referred to in Section 23a(1) in connection with early termination of their employment or another similar relationship shall reflect performance of such persons achieved over a certain period of time and may not reward failure or breach of duties.

(8) Compensations payable to persons as referred to in Section 23a(1) in connection with their previous employment are to be consistent with the bank's long-term business strategy, including the conditions for the retention of compensations, deferral of compensations, actual payment of compensations, and recovery of compensations paid.

(9) The measurement of performance used to determine variable remuneration components or pools of variable remuneration components in a bank shall include rules to integrate all relevant types of current and future risks and the bank's ability to meet the obligations set out in Sections 27(9)(b) and 29.

(10) In determining variable remuneration components, banks shall take account of all relevant types of current and future risks.

(11) A substantial portion, at least 50% of the deferred variable remuneration component and 50% of the non-deferred variable remuneration component, shall consist of an appropriate combination of:

- (a) securities; and
- (b) whenever possible, other financial instruments specified in other legislation<sup>25af</sup> or other instruments that can be fully converted to Tier 1 capital instruments or written down; these instruments must adequately reflect the credit quality of the bank as a going concern.

(12) The securities and other financial instruments referred to in paragraph 11 are subject to an appropriate retention period in accordance with the bank's remuneration principles in order to align the motivation of the persons referred to in Section 23a(1) with the bank's long-term objectives.

(13) At least 40% of the variable remuneration component shall be deferred over a period which is not less than four to five years from the determination of the expected variable remuneration component; the deferral period shall be correctly aligned with the nature of the bank's business, its risks and the activities of the person concerned as referred to in Section 23a(1). A bank under Section 23a(8) shall defer at least 40% of the variable remuneration component payable to persons referred to in Section 23a(1)(a) to (c) over a period of at least five years from the determination of the variable remuneration component; the deferral period shall be correctly aligned with the nature of the bank's business, its risks and the activities of the person concerned as referred to in Section 23a(1)(a) to (c). Remuneration payable under deferral arrangements shall vest no faster than on a pro-rata basis. Where

the total amount of the expected variable remuneration is exceptionally high, the pro-rata remuneration related to the period referred to in the first and second sentence must not be lower than 60% of the variable remuneration component. The length of the deferral period shall be established in accordance with the business cycle, the nature of the business, its risks and the activities of the person concerned as referred to in Section 23a(1).

(14) When deemed sustainable with respect to the bank's financial position and justified by the performance of the bank and of the relevant business unit and of the person concerned as referred to in Section 23a(1), persons referred to in Section 23a(1) shall be granted entitlement to the variable remuneration component, including the portion deferred pursuant to paragraph 13, or shall be paid the variable remuneration component, including the portion deferred pursuant to paragraph 13.

(15) Banks shall adopt measures that would allow them to revoke entitlement to the variable remuneration component or part thereof and request the variable remuneration component or part thereof already paid to be returned, should the financial position of the bank concerned worsen significantly; this shall be without prejudice to the provisions of the Labour Code pertaining to wages, wage arrangements, and wage deductions. The criteria for the use of the measures referred to in the first sentence shall also be applied where a person referred to in Section 23a(1) is involved in, or is responsible for, an action causing major financial losses to the bank.

(16) As part of their pension policy, banks may, in accordance with their business strategy, objectives, values and interests, set criteria for determining the variable remuneration component as discretionary payments to the supplementary pension scheme (hereinafter 'discretionary pension benefits'). Where a bank grants discretionary pension benefits under the first sentence and a person referred to in Section 23a(1) terminates their employment at or another similar relationship with the bank before retirement, discretionary pension benefits shall be held by the bank for a period of five years in the form of instruments specified in paragraph 11. Where a bank grants discretionary pension benefits under the first sentence and a person referred to in Section 23a(1) reaches retirement, discretionary pension benefits shall be paid to this person in the form of instruments specified in paragraph 11, subject to a five year retention period.

(17) Persons referred to in Section 23a(1) may not arrange insurance for the case of non-payment of variable remuneration.

(18) Variable remuneration may not be paid through vehicles or methods that facilitate the circumvention of the provisions of this Act or other legislation.<sup>30x</sup>

(19) The provisions of paragraphs 11 to 13 and the second and third sentence of paragraph 16 do not apply to:

- (a) banks that are not large institutions under other legislation<sup>25ag</sup> and whose average total value of assets on an individual basis under this Act or other legislation<sup>30x</sup> is equal to or less than EUR 5,000,000,000 during a period of four years preceding the current accounting period;
- (b) employees whose annual variable remuneration is less than EUR 50,000 and not more than one third of that employee's total annual remuneration.

Section 23c

Repealed as from 29 December 2020.

**Section 23d**



(1) Banks referred to in Section 23a(8) shall set up a remuneration committee; banks other than those referred to in Section 23a(8) shall not set up a remuneration committee if they put a person in charge of the bank's remuneration system. The remuneration committee or the person in charge of the bank's remuneration system shall:

- (a) exercise independent judgement on the remuneration principles and their implications for risk management, own funds, and liquidity;
- (b) be responsible for the preparation of decisions concerning remuneration, including those with implications for risks and risk management, which are to be taken by the statutory body;
- (c) take in account the long-term interests of the bank's shareholders, investors, and other parties when preparing decisions; and
- (d) supervise the remuneration of all statutory body members and managers responsible for risk management.

(2) The remuneration committee of a bank is to consist of at least three members. A member of such committee may be only a member of the bank's supervisory board; this also applies to supervisory board members elected by the bank's employees.

### **Section 23e**

(1) Banks shall notify Národná banka Slovenska in writing of the differences in the remuneration of men and women and of the persons whose total remuneration in the bank for the respective accounting period amounts to at least EUR 1,000,000, and of the number of such persons, by 30 June every year. Where the accounting period is a fiscal year rather than a calendar year, the notification period according to the previous sentence shall be extended by the period of time between the end of the calendar year and the end of the fiscal year.

(2) In exercising supervision, Národná banka Slovenska shall use the information disclosed under Section 37(9)(h) and under other legislation<sup>25ah</sup> for the purpose of comparing the trends and procedures observed in the area of remuneration.

(3) Národná banka Slovenska shall send the information disclosed under paragraphs 1 and 2 to the European supervisory authority (European Banking Authority).<sup>25a</sup>

### **Section 24**

(1) A bank shall have a statutory body and a supervisory board. The statutory body is the board of directors. Both the statutory body and the supervisory board must have at least three members. The composition of the statutory body and supervisory board shall ensure that the knowledge, skills and expertise of the statutory body as a whole and of the supervisory board as a whole correspond to the bank's activities, including the main risks.

(2) Members of a bank's statutory body shall be responsible for the preparation, approval, and observance of the bank's organisational structure, for the adoption and operation of the bank's management system, and for the conduct of banking activities in accordance with the bank's internal regulations.

(3) Statutory body members shall be familiar with, control and monitor the activities the bank is authorised to perform, ensure the safety and soundness of the bank, adopt and regularly review the general principles of remuneration, and maintain an effective risk management system. For the purposes of this Act, 'safety and soundness of a bank' means such conduct of banking activities that does not endanger the maintenance of the bank's own funds at the required level, liquidity, compliance with the exposure limits, the legitimate interests of depositors and other creditors, or the

banking system.

(4) Members of a bank's supervisory board shall be familiar with and supervise the performance of banking activities, the exercise of powers by the statutory body, and the conduct of other activities. Supervisory board members shall adopt and regularly review the general remuneration principles, oversee their implementation, and monitor the secure and effective functioning of the risk management system. Banks shall deliver a report to Národná banka Slovenska on the verification of compliance with the remuneration principles by 30 June of the year following the calendar year for which the report is compiled.

(5) Statutory body members, supervisory board members, and managers of a bank shall exercise their rights and obligations in accordance with the law of the Slovak Republic in order to achieve an increase in the value of the bank's shares or profits. The foregoing is without prejudice to their duties pursuant to paragraphs 3 and 4.

### **Section 25**

(1) A member of a bank's statutory body may not constitute, or be a member of, the statutory body, authorised representative, or a member of the supervisory board of another legal person engaged in business.<sup>26a</sup> A bank's authorised representative or employee may not constitute, or be a member of, the statutory body, authorised representative, or a member of the supervisory board of another legal person that is a client of the same bank, unless paragraphs 14 and 15 provide otherwise.

(2) A member of a bank's supervisory board may not be a member of the statutory body or employee of the same bank, nor a member of another bank's supervisory board or statutory body, or an authorised representative or a person authorised on the basis of an entry in the Commercial Register to act on behalf of the same or another bank, or another legal person that is a client of the same bank; this does not apply where such client is another bank or a foreign bank controlling the same bank. A member of a bank's supervisory board may be an employee of the same bank only if elected to a position by the bank's employees.

(3) Members of a bank's statutory body or supervisory board, or employees of that bank, may not use any information that has not yet been published and that has been obtained by them in connection with their position or employment with the aim of attempting to conclude or concluding, either directly or indirectly, a transaction for their own account or for the account of a third party. Members of a bank's statutory body or supervisory board, or employees of that bank, may not misuse any information acquired in connection with their position or employment to gain undue benefits either for themselves or for a third party.

(4) The head of a bank's internal control and internal audit unit shall be appointed and dismissed with the prior approval of the supervisory board or at the suggestion of the supervisory board. The remuneration of the head of a bank's internal control and internal audit unit shall be determined under the same conditions by the bank's statutory body. The bank's supervisory board shall be authorised to request the internal control and internal audit unit's head to carry out an audit in the bank in the range it specifies.

(5) The head of a bank's internal control and internal audit unit shall notify the bank's supervisory board and Národná banka Slovenska without delay of any shortcomings found during the activity performed under Section 23(4).

(6) The head of a bank's internal control and internal audit unit may not be a member of the statutory body or supervisory board of the same bank, nor a member of the statutory body or supervisory board of another legal person.

(7) 'Ancillary services undertaking' means an ancillary services undertaking as defined in other legislation.<sup>26c</sup>

(8) The prohibitions and restrictions stipulated in paragraphs 1 and 2 for a bank's statutory body members and employees do not apply to their membership of the statutory body or supervisory board of a legal person not engaged in business.<sup>26d</sup>

(9) Members of a bank's statutory body and supervisory board shall perform their tasks and duties properly, honestly, and independently throughout the term of office, and shall devote enough time to these tasks and duties; the fact that a statutory body member or supervisory board member is a venturer in an associate<sup>26da</sup> does not in itself constitute an obstacle to their independence.

(10) Banks shall ensure personnel and financial resources for the continuous professional training of their statutory body members and supervisory board members.

(11) In selecting their statutory body and supervisory board members, banks shall follow the rules laid down in other legislation.<sup>26e</sup>

(12) After disclosing the information under other legislation,<sup>26f</sup> banks shall deliver the information disclosed to Národná banka Slovenska without undue delay. Národná banka Slovenska shall use the information to benchmark the banks' policies on diversity with regard to the selection of statutory body members and supervisory board members.

(13) Národná banka Slovenska shall, without delay, report the information mentioned in paragraph 12 to the European supervisory authority (European Banking Authority).

(14) A member of a bank's statutory body or supervisory board may be a member of no more than one statutory body and three supervisory boards at the same time or a member of no more than five supervisory boards without being a statutory body member, in the case of membership of:

- (a) another bank that is part of the same institutional system of protection under other legislation;<sup>26g</sup>
- (b) another legal person that is engaged in business<sup>26a</sup> and belongs to the same group;
- (c) the stock exchange;<sup>26b</sup>
- (d) the central securities depository;<sup>16</sup> or
- (e) another legal person in which the bank has a qualifying holding.

(15) For the purposes of paragraph 14, one or more statutory body or supervisory board member positions in entities referred to in paragraph 14(a), (b), and (e) are considered to be one position only.

(16) In granting prior approval pursuant to Section 9(4), Národná banka Slovenska shall also take into account the individual circumstances, the nature, range, and complexity of the bank's activities, and the time devoted to the performance of the tasks of a statutory body member or a supervisory board member.

(17) In a decree to be promulgated in the Collection of Laws, Národná banka Slovenska shall give a precise definition of what is meant by the independence of a statutory body member or a supervisory board member.

## Section 26

(1) The provisions of Sections 24 and 25 are without prejudice to the provisions of other legislation.<sup>1</sup>

(2) The provisions of Sections 23 to 25, except for the provisions concerning remuneration, shall similarly apply to foreign bank branches, as well as to the heads and employees of such branches.

## DIVISION SIX REQUIREMENTS FOR THE OPERATIONS OF BANKS OR FOREIGN BANK BRANCHES

### Section 27

(1) Banks and foreign bank branches shall conduct transactions with their clients on a contractual basis. Banks and foreign bank branches shall proceed with prudence when performing their activities, and shall in particular carry out transactions:

- (a) in a manner that takes into account and mitigates the risks involved;
- (b) in a manner that does not harm the interests of depositors in regard to the recoverability of their deposits and does not threaten the security or financial position of the bank or foreign bank branch concerned, nor the smooth functioning of the banking system, without breaching the applicable laws or other legislation of general application;
- (c) under economic and legal conditions that are favourable for the bank or foreign bank branch concerned, as well as for its clients when transactions are made for the client's account, and with due professional care; banks and foreign bank branches shall provide convincing proof of such professional care;
- (d) in a manner ensuring that, in each transaction, at least two persons are involved on behalf of the bank or foreign bank branch concerned; if this is not possible for operational reasons, they shall forthwith ensure that the transaction is checked by persons who were not involved in its execution.

(2) In order to prevent losses or damage arising from the incorrect performance of banking activities, banks and foreign bank branches shall follow the correct procedures in conducting banking activities and shall adopt and maintain an effective risk management system. Banks and foreign bank branches shall modify their risk management system on the basis of regular reviews of the system's functionality and effectiveness so that it takes into account the ability of the bank or foreign bank branch concerned to face risks and the consequences of the changing economic environment. Banks and foreign bank branches shall, if necessary, adjust the risk management system and the method of its updating through internal regulations, according to which they are obliged to proceed.

(3) For the purposes of paragraphs 2 and 4, banks that are G-SIIs under Section 33a(1)(b) or banks that are O-SIIs under Section 33a(1)(c) shall set up a risk management committee composed of supervisory board members. Members of the risk management committee shall have appropriate knowledge, skills and expertise to fully understand and monitor the risk management strategy and the risk appetite of the bank. Other banks than those mentioned in the first sentence are not required to set up a risk management committee provided that risk management is conducted by the audit committee as defined in other legislation,<sup>26ga</sup> which conducts activities pursuant to paragraphs 2 and 4.

(4) The organisation structure of a bank must include a manager and other employees responsible for risk management, which, for the purposes of this Act, means:

- (a) the monitoring and implementation of the bank's risk management strategy and procedures pursuant to paragraph 1;
- (b) the presentation of an activity report in writing to the bank's statutory body and supervisory board at least once a year;
- (c) the provision of support and information to the bank's statutory body and supervisory board in connection with risk identification, risk analysis, risk monitoring, risk recording, and risk management;
- (d) the verification of whether the values of assets and liabilities offered to clients reflect the bank's business and investment objectives and its risk management strategy.

(5) The employees referred to in paragraph 4 shall perform risk management tasks independently from the bank's other units and shall inform the supervisory board without delay of any shortcoming that may lead to a breach of duties under paragraph 1.

(6) A manager as referred to in paragraph 4 may be recalled only with the supervisory board's prior consent.

(7) Banks shall have their own system in place for assessing and maintaining the adequacy of their internal capital with regard to the risks to which they are or may be exposed. The internal capital adequacy assessment system shall correspond to the nature, scope, and complexity of the banking activities performed and shall include:

- (a) a strategy for controlling the level of internal capital;
- (b) a procedure for determining the adequate level of internal capital, the composition of internal capital, and the allocation of internal capital for risk coverage;
- (c) a system for maintaining the bank's internal capital at the required level.

(8) The internal capital of banks must be adequate for market risks that are not subject to an own funds requirement. Banks which have, in calculating their own funds requirements for position risk under other legislation,<sup>26h</sup> netted off their positions in one or more of the equities constituting a stock-index against one or more positions in the stock-index future or other stock-index product shall have adequate internal capital to cover the basis risk of loss caused by the future's or other product's value not moving fully in line with that of its constituent equities. Banks shall also have such adequate internal capital where they hold opposite positions in stock-index futures which are not identical in respect of either their maturity or their composition or both. When using the procedure stipulated in other legislation,<sup>26i</sup> banks shall ensure that they hold sufficient internal capital against the risk of loss which exists between the time of the initial commitment and the following working day.

(9) Banks and foreign bank branches shall:

- (a) continuously maintain their solvency;
- (b) manage their assets and liabilities so as to ensure uninterrupted liquidity and observance of the liquidity ratios;
- (c) inform Národná banka Slovenska without delay of the actual or expected non-fulfilment of duties pursuant to point (b) and then submit to Národná banka Slovenska a plan for the timely recovery of their liquidity ratios.

(10) For the purposes of this Act, the following definitions apply:

- (a) 'exercising professional care' means that a bank or a foreign bank branch performs the following activities:

1. compares the price offers received for individual transactions or justifies the unsuitability or impossibility of assessing several offers;
  2. records how a transaction is made, checks the objectivity of the recorded data, and prevents own losses, including damage;
  3. carries out an analysis of the economic benefits of transactions on the basis of the information available;
  4. draws up business and investment plans as a basis for carrying out individual transactions;
- (b) 'solvency' means the ability to make due and timely payments to discharge financial liabilities;
- (c) 'liquidity' means the ability to convert assets into cash without unnecessary losses in order to make due and timely payments to meet financial liabilities.

(11) Where a bank or a foreign bank branch makes a mistake when providing payment or settlement services, it shall ensure, at its own expense and without undue delay, that the mistake is rectified.

(12) Banks and foreign bank branches may not conclude a contract under terms and conditions that are obviously disadvantageous to them, in particular contracts that oblige them to make an economically unjustified payment or a payment evidently not corresponding to the counter value provided, or contracts that evidently fail to provide sufficient security for their receivables.

(13) A bank shall establish legal relations with the members of its statutory body and a foreign bank branch with the head of the branch in a written contract, which is not governed by other legislation<sup>27</sup> and which is in accordance with this Act.

(14) In a decree<sup>23</sup> to be promulgated in the Collection of Laws, Národná banka Slovenska shall stipulate:

- (a) details about the risk management systems of banks and the rules set out in paragraph 2, and other types of risks;
- (b) the liquidity ratios and details about liquidity pursuant to paragraph 9, including the method of its calculation;
- (c) the percentage ratios referred to in paragraph 19, expressing a bank's foreign exchange position in a foreign currency and total foreign exchange position in relation to its own funds, as well as details of how to calculate the foreign exchange position in different currencies and the total foreign exchange position;
- (d) the extent to which the rules set out in points (a) to (c) apply to foreign bank branches.

(15) The head of a foreign bank branch shall be fully liable for any damage they may cause during the performance of their duties where this results from non-compliance with an obligation by the head of the branch, arising from the applicable laws, other legislation of general application, or the internal regulations of the foreign bank branch in question.

(16) A bank or a foreign bank branch may not perform any legal act at its own expense in favour of a member of the bank's statutory body, a member of the bank's supervisory board, or the head of the foreign bank branch in regard to insurance against liability for damage caused during the performance of their duties or in regard to insurance against being dismissed from their posts. If a bank or a foreign bank branch dismisses such persons from their posts because, pursuant to Section 50(2), they no longer meet good repute requirements, it shall not pay them any agreed remuneration or remuneration conferred under its internal regulations; the right to any such remuneration shall expire.

(17) The supervisory board of a bank shall ensure that compensation is claimed for any damage caused to the bank and for which a statutory body member is responsible in accordance with paragraph 18.

(18) A member of a bank's statutory body shall be fully liable for any damage they may cause during the performance of their duties where this results from the breach of a statutory body member's obligation arising from the relevant laws, other legislation of general application, or from the bank's articles of association or internal regulations.

(19) Banks shall perform their activities in a manner ensuring that the following percentage ratios mentioned in paragraph 14(c) are not exceeded:

- (a) the ratio of foreign exchange positions in the individual currencies to own funds;
- (b) the ratio of the total foreign exchange position to own funds.

### **Section 27a**

(1) Banks and foreign bank branches may use independent financial agents or bound financial agents for financial intermediation in accepting deposits and providing loans in accordance with another act.<sup>27a</sup> Banks, foreign banks, and foreign bank branches shall be entitled to use the persons mentioned in the first sentence only if such persons are registered in the Register of financial agents, financial advisers, and financial intermediaries from other Member States operating in the insurance or reinsurance sector and bound investment agents.<sup>27b</sup>

(2) Banks and foreign bank branches may use, for financial intermediation in accepting deposits and providing loans, only persons authorised to perform such activity.

### **Section 27b**

(1) Banks and foreign bank branches shall ensure that employees who come into contact with non-professional clients have appropriate professional competence.<sup>27c</sup>

(2) 'Professional competence of employees' pursuant to paragraph 1 means the basic level of professional competence under another act.<sup>27d</sup>

(3) Banks and foreign bank branches shall ensure the verification of professional competence of their employees under paragraph 1 using the procedure stipulated in another act.<sup>27e</sup>

(4) Banks, foreign banks, and foreign bank branches shall keep a list of the employees referred to in paragraph 1.

### **Section 27c**

#### **Provision of basic banking products**

(1) Banks and foreign bank branches shall provide banking services to clients, who are deemed to be consumers<sup>27f</sup> (hereinafter 'consumers'), in the range of a basic banking product, provided that:

- (a) the consumer has attained 18 years of age;
- (b) the consumer submits a written application to a bank or a foreign bank branch for the provision of a basic banking product;
- (c) when applying for a basic banking product, the consumer has no payment account with that bank or foreign bank branch, except for a deposit account,<sup>27fa</sup> a debtor's special account under Section

27f, a passbook account or a savings account opened under a savings scheme for saving through a payment card or through regular money transfers or for one-off savings;

- (d) the consumer does not have a net monthly income higher than 1.1 times the minimum wage as at the date when the application for a basic banking product is submitted;
- (e) the bank or foreign bank branch concerned provides such banking services to the consumer as part of its business activity; and
- (f) the bank or foreign bank branch already provides the consumer with at least two banking services related to a current account within the scope of one transaction.

(2) The consumer shall confirm the facts mentioned in paragraph 1(c) and (d) in a statutory declaration.

(3) If a consumer requests the payment-service provider with which they have a payment account to switch that payment account to a basic banking product, the payment- service provider shall forthwith meet the consumer's request free of charge.

(4) While using a basic banking product provided by a bank or a foreign bank branch, the consumer may not open any other payment account, except for a deposit account, a debtor's special account under Section 27f, a passbook account or a savings account under a savings scheme for saving through a payment card or through regular money transfers or for one-off savings.

(5) Where a bank or a foreign bank branch finds that a statutory declaration as mentioned in paragraph 2 contains untrue information or that the provisions of paragraph 4 are not complied with, the bank or foreign bank branch shall stop providing the basic banking product to the consumer, unless the bank or foreign bank branch and the consumer agree otherwise.

(6) Where the sum of payment operations credited to a consumer's payment account over a calendar year as part of a basic banking product is higher than 15 times the minimum wage, the bank or foreign bank branch shall stop providing the basic banking product to the consumer, unless the bank or foreign bank branch and the customer agree otherwise.

(7) An application for the provision of a basic banking product shall contain the forename and surname, personal identification number, and permanent address of the applicant for a basic banking product.

(8) Where a bank or a foreign bank branch rejects a consumer's application for the provision of a basic banking product, it shall forthwith inform the consumer in writing of the reasons for such rejection.

(9) Consumers may carry out payment operations in accordance with point 2 of Section 5(s) through:

- (a) payment cards;
- (b) the place where their bank or foreign bank branch operates;
- (c) technical equipment enabling remote access to their payment account.

(10) Banks and foreign bank branches shall provide, within the scope of a basic banking product, banking services in euro in the range and manner specified in legislation of general application issued by the Ministry; the maximum fee for a basic banking product shall be stipulated in the same legislation of general application.



(11) Within the scope of a basic banking product, banks and foreign bank branches may not provide loans to consumers in the form of an authorised overdraft facility in connection with payment operations conducted under Section 5(s).

(12) Banks and foreign bank branches may not tie a basic banking product to the provision of another product or service.

(13) Banks and foreign bank branches shall keep a record of the basic banking products they provide to consumers, at least in the range of data specified in paragraph 7, including the dates when a basic banking product is provided and terminated.

(14) Banks and foreign bank branches shall supply, by 25 January of the respective calendar year, the Ministry with information for the previous calendar year, specifically:

- (a) the number of newly provided and cancelled basic banking products;
- (b) the number of rejected applications for the provision of a basic banking product, including the reasons for such rejection;
- (c) the fee charged for a basic banking product.

(15) The Ministry shall, at least once a year, inform the European Commission of the basic banking products in the range specified in paragraph 14.

(16) Banks and foreign bank branches shall disclose information about basic banking products under paragraph 17 on their websites, as well as on their business premises; they shall, upon request, provide such information to consumers free of charge, either in paper form or on durable media.<sup>72d</sup>

(17) The information mentioned in paragraph 16 shall comprise:

- (a) the terms and conditions for the provision of a basic banking product;
- (b) the banking services included in a 'basic banking product' package;
- (c) the scale of fees charged for basic banking products;
- (d) information on the settlement of disputes out of court.

## **Section 27d**

### **Opening a payment account with basic features**

(1) Banks and foreign bank branches shall provide banking services to authorised persons in the range of a standard account, provided they provide all the banking services linked to a standard account as part of their business activity. They shall open standard accounts for authorised persons on the basis of an application for a standard account unless there are compelling reasons not to do so in accordance with paragraph 7.

(2) For the purposes of this Act, 'authorised person' means a client who is a consumer<sup>27f</sup> and a resident of the European Union. Also classified as authorised persons are consumers without residence in the Slovak Republic, asylum seekers and consumers without a residence permit who cannot be exiled on legal or factual grounds.<sup>27fba</sup>

(3) An application as referred to in paragraph 1 shall contain the authorised person's forename and surname, personal identification number, address of residence, and the type and number of their identity document.<sup>73</sup> Attached to the application shall be a statutory declaration made by the authorised person, stating that they have no other payment account<sup>13mb</sup> with a bank or a foreign bank branch, except for a deposit account, a debtor's special account under Section 27f, a passbook account

or a savings account opened under a savings scheme for saving through a payment card or through regular money transfers or for one-off savings.

(4) An authorised person for whom a standard account has already been opened may not open another payment account with a bank or a foreign bank branch, except for a deposit account, a debtor's special account under Section 27f, a passbook account or a savings account under a saving scheme for saving through a payment card or through regular money transfers or for one-off savings.

(5) Banks and foreign bank branches shall open a standard account, or shall reject the relevant application in accordance with paragraph 1, within ten working days of the date following the receipt of a complete application.

(6) If an application submitted under paragraph 1 is incomplete or improperly made, the bank or foreign bank branch shall request the authorised person concerned to correct or supplement the application within 30 calendar days of receipt of the request sent to the authorised person and shall inform the authorised person of the possible consequences of their failure to comply.

(7) Banks and foreign bank branches shall reject an application submitted under paragraph 1 where:

- (a) the opening of a standard account contradicts the applicable regulation;<sup>21a</sup>
- (b) the authorised person has a payment account with a bank or a foreign bank branch, including all the banking services linked to a standard account;
- (c) the time period defined in paragraph 6 has elapsed.

(8) If a bank or a foreign bank branch decides to reject an application submitted under paragraph 1, and providing that it is not barred from disclosing the reason for rejecting such application on grounds of public order or state security or by other legislation, it shall promptly inform in writing, at no charge, the authorised person concerned<sup>21a</sup> of:

- (a) the reasons why it has decided to reject the application;
- (b) the procedure for lodging a complaint against such rejection;
- (c) the right to lodge a complaint to Národná banka Slovenska;
- (d) the authorities competent to settle disputes out of court;
- (e) the contact data of these authorities.

(9) Banks and foreign bank branches shall open a standard account for an authorised person who has a payment account with a bank or a foreign bank branch, which comprises all the banking services linked to a standard account, if that person presents a document confirming that the said payment account has been closed no later than the day preceding the date when the standard account is to be opened by the bank or foreign bank branch concerned. A document confirming the closure of a payment account is to be issued free of charge.

(10) If a consumer cancels a payment account that is related to a mortgage loan and subsequently applies for a standard account to be opened with the same bank or foreign bank branch, that bank or foreign bank branch may not provide such a mortgage loan to the same consumer under less favourable conditions than it had provided before the closure of the payment account that was linked to a mortgage loan.

(11) If a consumer requests a payment-service provider with which they have a payment account to switch that payment account to a standard account, the payment-service provider shall promptly comply with this request free of charge.

(12) If an authorised person has a payment account comprising the same banking services as a standard account, the bank or foreign bank branch with which the authorised person has a payment account shall, once a year, inform the authorised person concerned, in a demonstrable manner, of the possibility of opening a standard account.

(13) Banks and foreign bank branches may agree with an authorised person about the provision of services or products linked to a standard account above the limits of payment services as specified in Section 5(ae), for which fees may be charged.

(14) Banks and foreign bank branches may not make the opening of a standard account conditional on the purchase of further services or shares<sup>27fbb</sup> from the bank or foreign bank branch concerned, where this condition applies to all clients.

(15) Banks and foreign bank branches shall provide banking services in euro to holders of standard accounts within the scope and in the manner stipulated by legislation of general application issued by the Ministry; this regulation shall also specify the maximum level of the fee charged for a standard account.

(16) Banks and foreign bank branches shall stop maintaining a standard account for an authorised person who is found to:

- (a) have used a payment account in contrast with the applicable regulation;<sup>21a</sup>
- (b) have carried out no payment operation through their payment account for more than 24 consecutive months;
- (c) have provided demonstrably false information in order to obtain a standard account;
- (d) have no place of residence in the European Union; or
- (e) have a payment account comprising the same banking services as a standard account.

(17) If a bank or a foreign bank branch terminates by notice a standard-account agreement on the grounds listed in paragraph 16(b), (d) and (e), it shall promptly inform in writing the authorised person concerned free of charge, no later than two months before the effective date of the notice; this does not apply where such information may not be disclosed on grounds of public order or state security. The closure of a standard account on the grounds mentioned in paragraph 16(a) and (c) will become effective on the day when the notice terminating the standard-account agreement is given.

(18) A bank or a foreign bank branch terminating a standard-account agreement shall, when delivering the notice of termination, inform in writing the authorised person concerned free of charge as to which authority is competent to deal with and settle out of court submissions regarding the termination by notice of standard-account agreements, including the contact data of that authority.

(19) Authorised persons may carry out payment operations as specified in point 2 of Section 5(ae) within the European Union through:

- (a) payment cards;
- (b) the places where their bank or foreign bank branch performs its activities;
- (c) technical equipment enabling remote access to their payment account, if such equipment is provided by the bank or foreign bank branch.

(20) Banks and foreign bank branches shall, by 10 September of each calendar year, supply the Ministry with information for the previous calendar year, specifically:

- (a) the number of newly opened and closed standard accounts;
- (b) the number of applications rejected under paragraph 1 and the reasons for their rejection;
- (c) the fee charged for a standard account with basic features.

(21) The Ministry shall, every second year, supply information to the Commission in regard to standard accounts in the range specified in paragraph 20.

(22) Národná banka Slovenska shall, every second year, supply information to the Commission in regard to the number of banks and foreign bank branches offering standard accounts.

(23) Banks and foreign bank branches shall make available on their websites and business premises any or all of the information listed in paragraph 24; they shall, upon request, provide such information to consumers free of charge, either in paper form or electronically on durable media.<sup>72d</sup>

(24) Information on standard accounts with basic features shall be disclosed in the following range:

- (a) banking services linked to a standard account;
- (b) information on fees and charges;
- (c) reasons for rejecting an application under paragraph 1;
- (d) information on prohibition as defined in paragraph 14;
- (e) information on the settlement of disputes out of court.

### **Section 27e**

Banks and foreign bank branches shall, when considering an application for the opening of, or access to, a payment account, treat a consumer who is a resident of the European Union in accordance with the principle of equal treatment laid down in other legislation.<sup>27fbc</sup> Under the said principle, discrimination on the grounds of nationality or place of residence shall be prohibited in relation to consumers who are residents of the European Union.

### **Section 27f**

#### **Opening and maintaining a debtor's special account**

(1) Banks and foreign bank branches shall, at the request of a debtor's insolvency practitioner, open and maintain a debtor's special account under other legislation<sup>13mc</sup> provided that the provisions of banking services under Section 5(ag) falls within the scope of their business.

(2) The obligation to maintain a debtor's special account expires after the period set out in other legislation.<sup>27fbd</sup> No later than two months before a debtor's account expires, the bank or foreign bank branch shall inform the account holder of this fact; it shall also inform the account holder that the balance of the account may be paid out in cash or transferred to another account with a bank or a foreign bank branch and that the debtor's special account may be converted into another account provided that the bank or foreign bank branch permits such conversion.

(3) The fee for a debtor's special account including the minimum range of services under Section 5(ag) shall not exceed €2 per month and shall be debited from the account balance.

### **Section 27g**

#### **Opening and maintaining a special account to cover election campaign costs**

(1) Banks and foreign bank branches shall open and maintain a special payment account in the scope defined by other legislation,<sup>27fbe</sup> at the request of a person who is obliged, under other legislation,<sup>27fbf</sup> to open such an account for funds intended for use in an election campaign.

(2) Banks and foreign bank branches are not obliged to open a special payment account under paragraph 1 if opening it would be contrary to other legislation.<sup>21a</sup> A bank or foreign bank branch that declines to open a special payment account under paragraph 1 on such grounds shall inform the person under paragraph 1 about this reason free of charge and without delay.

(3) A bank or foreign bank branch is entitled to close a special payment account under paragraph 1 if it is found that the person under paragraph 1 used the account in a manner contrary to the other legislation.<sup>21a</sup> Closure of a special payment account under paragraph 1 is effective from the issue date of notice terminating the agreement on the special payment account under paragraph 1.

## Section 28

(1) The prior approval of Národná banka Slovenska is required in order to:

- (a) acquire or increase a qualifying holding in a bank so that the share in the bank's share capital or voting rights reaches or exceeds 20%, 30% or 50%, or so that the bank becomes a subsidiary of a person that acquires such a holding in one or more transactions, whether directly or by acting in concert; for the calculation of such holdings, the voting rights shall not be taken into account, nor shall be taken into account the shares that an investment firm, a foreign investment firm, another bank or a foreign bank hold as a result of underwriting or placing of financial instruments on a firm commitment basis,<sup>27g</sup> unless such rights are exercised or performed otherwise to interfere with the management of the bank, and provided that they are transferred by the investment firm, the foreign investment firm, another bank or foreign bank to a third party within a year upon their acquisition;
- (b) carry out a bank's conversion or cross-border conversion, to return a banking authorisation, or to reduce a bank's share capital unless the reduction is for the purpose of offsetting a loss;
- (c) dissolve a bank for reasons other than those specified under point (b) or to carry out a change or cross-border change in its legal form; in this case, the bank shall return its banking authorisation on the date specified in the prior approval decision;
- (d) sell a bank, a foreign bank branch, or parts thereof;<sup>28</sup>
- (e) use the shares issued by a bank as the subject of security for the liabilities of the holder of these shares or of another person, except for cases where the subject of such security are shares accounting in total for less than 5% of the bank's share capital in one or more transactions, whether directly or by acting in concert;
- (f) commence activities related to the first covered bond programme under Section 67(5) and for every subsequent covered bond programme individually;
- (g) transfer a covered bonds programme or a part thereof, including the conclusion of an agreement on the transfer of a covered bond programme or conclusion of several agreements on the transfer of parts thereof, as well as to conclude other agreements serving the purpose of transferring the whole of a covered bond programme.

(2) For prior approval to be issued under paragraph 1, the conditions set out in Section 7(2) and (4) are to be met as appropriate; for prior approval to be issued, the clear and trustworthy provenance,<sup>21a</sup> sufficient volume, and correct structure of financial resources are to be documented prior to the operation for which prior approval is requested. Prior approval under paragraph 1(a) may only be issued if the acquisition or exceeding of a holding by the acquirer does not prove to affect adversely the bank's ability to meet the obligations stipulated by this Act; the issuance of prior approval under paragraph 1(a) does not require the conditions for managers set out in Section 7(2)(e) and (r) to be met. A bank's conversion, cross-border conversion or dissolution, or the sale of a bank or part thereof,<sup>28</sup> may not be to the detriment of the bank's creditors; this also applies to the sale of a foreign bank branch or part thereof.<sup>28</sup> For prior approval to be issued under paragraph 1(f) or (g), the applicable conditions set out in paragraph 25 and Sections 67 to 82 are to be met; if the transferor is

to be a bank placed in receivership, a bank in resolution or under adjudication of bankruptcy, the conditions set out in Section 55(8) to (10) and in other legislation<sup>28a</sup> are to be met as well. A transfer of a covered bond programme or a part thereof shall be governed by the provisions of the Commercial Code concerning the sale of an enterprise or a part thereof,<sup>28</sup> with the difference that the transfer of a covered bond programme or a part thereof shall not require a transfer of either the enterprise's personal assets, or any part thereof;<sup>28b</sup> upon the completion of the transfer of a covered bond programme or a part thereof, the creditor may not seek a declaration of ineffectiveness of the transfer or transition of such liability from the seller to the buyer where the obligation towards the creditor forms a part of the transfer of a covered bond programme or a corresponding part thereof.<sup>28c</sup>

(3) The provision of paragraph 1 is without prejudice to the provisions of other legislation.<sup>29</sup>

(4) It is possible to proceed on the basis of a prior approval granted under paragraph 1 for a period of up to one year, unless such approval is granted for a shorter period or unless Národná banka Slovenska stipulates otherwise.

(5) Without prior approval from Národná banka Slovenska under paragraph 1, every legal act for which prior approval is required shall be null and void. A legal act performed on the basis of a prior approval granted on the basis of false data shall also be null and void. This does not apply to the acquisition of, or increase in, a qualifying holding in a bank under paragraph 1(a) indirectly as a result of a foreign stabilisation measure aimed at mitigating the impacts of the global financial crisis and the sale of a foreign bank branch or part thereof under paragraph 1(d), through which the foreign stabilisation measure alleviates the impacts of the global financial crisis. Národná banka Slovenska shall withdraw any prior approval under paragraph 1(f) that is obtained on the basis of false data.

(6) An application under paragraph 1(a) shall be submitted by persons that intend to acquire or increase a qualifying holding in a bank, or by a person that has decided to become the parent undertaking of the bank. An application under paragraph 1(b) and (c) shall be submitted by the bank or, in the case of a merger or cross-border merger, jointly by the bank and the other party in the merger. An application under paragraph 1(d) shall be submitted jointly by the bank or foreign bank and the person acquiring the bank, foreign bank branch, or part thereof. An application under paragraph 1(e) shall be submitted by a shareholder who intends to use the shares as security for the shareholder's liabilities. An application under paragraph 1(f) shall be submitted by the bank. An application under paragraph 1(g) shall be submitted by the bank in cooperation with a covered bond programme administrator; where a covered bond programme is transferred in parts, the bank in cooperation with a covered bond programme administrator shall submit one application covering the transfer of all parts of the covered bond programme. The persons mentioned in this paragraph shall inform Národná banka Slovenska without delay of their intention to perform an act under paragraph 1.

(7) In a decree<sup>23</sup> to be promulgated in the Collection of Laws, Národná banka Slovenska shall lay down the contents of an application for prior approval under paragraph 1 including the documents to be attached to the application, details of the conditions referred to in paragraph 25, and how compliance with the conditions is to be verified.

(8) The person mentioned above shall, upon written request, provide Národná banka Slovenska with information within the time limit set in the request, for the purpose of determining whether an action requiring prior approval under paragraph 1 has taken place, especially with information about the shareholders of commercial companies or cooperatives, and information about agreements on the exercise of voting rights.

(9) A person intending to cancel a qualifying holding in a bank or to reduce its interest in the bank's share capital or voting rights below 20%, 30% or 50%, or to such an extent that the bank ceases to be its subsidiary, shall report this fact in writing to Národná banka Slovenska in advance.

(10) A bank shall forthwith inform Národná banka Slovenska in writing of the facts mentioned in paragraph 1(a) to (g) and paragraph 9.

(11) A bank trading on a regulated market shall, at least once a year or upon request, inform in writing Národná banka Slovenska without delay of its shareholders and other persons having a right to vote at the bank's general meetings; the bank shall also inform in writing the Ministry of its shareholders upon request.

(12) For the purposes of this Act, 'concerted action' means:

- (a) any action aimed at acquiring a share in a bank's share capital or voting rights taken by:
  1. a legal person and its associates or members, statutory bodies, statutory or supervisory body members, the legal person's employees directly reporting to the statutory body or its member, the heads of organisational units registered in the Commercial Register, authorised representatives, liquidators, receivers or insolvency practitioners of this legal person, and by persons in close relationship<sup>30</sup> with them or by any of these persons;
  2. persons who have concluded an agreement on the concerted exercise of voting rights in a bank in matters concerning its management, regardless of the form of this agreement or whether it is valid or not;
  3. a controlling or controlled person or by persons controlled directly or indirectly by the same controlling person;
  4. closely related persons;<sup>30</sup>
- (b) any action by two or more legal entities aimed at acquiring a share in a bank's share capital or voting rights, where the same natural person is the statutory body, a member of the statutory body, a member of the supervisory body, an authorised representative, or holds at least 5% of the legal person's share capital or voting rights, or has the ability to exercise for other reasons influence over the management of these legal entities, comparable with the influence arising from such share;
- (c) any action of personally connected legal entities;
- (d) any other similar action as mentioned in points (a) to (c).

(13) For the purposes of concerted actions as defined in paragraph 12, 'controlling person' means any person holding a majority interest in a legal person's voting rights, because that person has a participating interest in the legal person to which the majority of voting rights is attached or because, on the basis of an agreement with other persons, that person is entitled to exercise the majority of voting rights.

(14) For the purposes of concerted actions, 'controlled person' means a legal person in relation to which the controlling person has a position as defined in paragraph 13.

(15) If, through the acquisition of a participating interest pursuant to paragraph 1(a), a bank becomes part of a consolidated group under Sections 44 to 49, which also includes a financial holding company, or if it becomes part of a financial conglomerate under Sections 49a to 49o, which also includes a mixed financial holding company, the granting of prior approval by Národná banka Slovenska shall be conditional upon the presentation of documents certifying the professional competence and good repute of all natural persons who are members of the statutory body of this financial holding company or mixed financial holding company.

(16) 'Professional competence' as referred to in paragraph 15 means adequate knowledge of the financial sector and experience in the area of finance. The good repute of persons mentioned in paragraph 15 shall be verified in accordance with Section 7(15) and (16).

(17) In assessing the fulfilment of conditions under paragraph 2, Národná banka Slovenska shall consult with the competent authorities of other Member States if the acquirer as referred to in paragraph 1(a) is:

- (a) a foreign bank, foreign investment firm, foreign asset management company authorised in another Member State, insurance company from another Member State, or reinsurance company from another Member State;
- (b) the parent undertaking of a person mentioned in point (a); or
- (c) a natural or legal person controlling the person mentioned in point (a).

(18) Where the acquirer of a participating interest in a foreign bank from a Member State is a bank, insurance company, reinsurance company, investment firm or asset management company having its registered office in the territory of the Slovak Republic, Národná banka Slovenska shall consult with the competent supervisory authority of the Member State mentioned in Section 7a(1)(a) about the fulfilment of conditions for the acquisition of a participating interest in a foreign bank established in the territory of a Member State in accordance with the laws of the Member State concerned.

(19) The subject matter of such consultation under paragraphs 17 and 18 shall be the timely disclosure of any information required for assessing the fulfilment of conditions for the acquisition of a participating interest in a domestic or foreign bank. Národná banka Slovenska shall, upon request, provide the competent supervisory authority of the Member State concerned with the required information and, on its own initiative, with any other relevant information. Národná banka Slovenska shall request the competent supervisory authority of the Member State to supply the information required.

(20) A decision to grant prior approval under paragraph 1(a) shall include the views or reservations reported to Národná banka Slovenska by the competent authority of the Member State exercising supervision over the person that has acquired a participating interest in a bank pursuant to paragraph 1(a).

(21) Národná banka Slovenska shall confirm in writing the delivery of an application for prior approval under paragraph 1(a) within two business days of the date of delivery of such application to the acquirer; this also applies to the subsequent delivery of documents attached to the application that were not delivered with the application. Národná banka Slovenska may request, in writing, additional information it needs to examine applications under paragraph 1(a), but no later than the 50th business day of the period set for the processing of applications under paragraph 2. From the date when Národná banka Slovenska sends a request for additional information to the day when an answer is delivered, the process of applying for prior approval shall be suspended, for a period of maximum 20 business days. If Národná banka Slovenska requests additional or more detailed information, the period for the issuance of a decision to grant prior approval shall not be suspended. The suspension of the period under the third sentence may be extended by Národná banka Slovenska by up to 30 business days, if the acquirer is established in, or is governed by the laws of, a third country, or if the acquirer is not an investment firm, asset management company, bank, insurance company, reinsurance company, or a similar institution from a Member State.

(22) Národná banka Slovenska shall decide in the matter of an application for prior approval under paragraph 1(a) within 60 business days after the delivery of this application is confirmed in



writing and after all elements of this application are delivered, unless paragraph 24 stipulates otherwise. If Národná banka Slovenska fails to decide in this period, the prior approval shall be deemed to be granted. Národná banka Slovenska shall inform the acquirer of the date when the time limit for the issuance of a decision lapses in a written confirmation of delivery pursuant to paragraph 1. If Národná banka Slovenska decides to reject an application for prior approval under paragraph 1(a), this decision shall be sent to the acquirer in writing within two business days of the date of decision, but no later than the date when the time limit defined in the first sentence lapses.

(23) Národná banka Slovenska shall not issue prior approval under paragraph 1 where the applicant fails to meet any of the conditions set out in paragraphs 2, 6, 8 to 11 or where the data requested under paragraphs 2, 6, 8 to 11 are incomplete. An application for prior approval under paragraph 1 may not be rejected on account of the economic needs of the financial market.

(24) Pursuant to other legislation,<sup>30aa</sup> Národná banka Slovenska shall, without delay, evaluate the Resolution Council's request to assess the acquisition of a qualifying holding under paragraph 1(a). After evaluating the Resolution Council's request, Národná banka Slovenska shall, without delay, deliver in writing to the Resolution Council and to the bank concerned the decision to grant or not to grant an approval with the acquisition or increase of a qualifying holding in the bank.

(25) The granting of prior authorisation to a bank under paragraph 1(f) requires:

- (a) the business plan for the proposed issue of covered bonds;
- (b) adequate policies, procedures and methods for protection of the owners of the covered bonds in respect of the approval, amendment, renewal and loan refinancing in the cover pool;
- (c) the adequacy of the qualifications and knowledge of the managers and employees assigned to the covered bond programme in respect of a covered bond issue and covered bond programme administration;
- (d) the administrative arrangements for the cover pool and its supervision in accordance with Section 67 to 82;
- (e) fulfilment of other conditions applicable to the covered bond programme.

(26) A bank that is an issuer of covered bonds must comply with the conditions under paragraph 25 and Sections 67 to 82 at all times during the validity of prior approval under paragraph 1(f). A bank that is an issuer of covered bonds must inform Národná banka Slovenska in advance and in writing of any changes in conditions under paragraph 25 that were relevant to the granting of prior approval under paragraph 1(f).

## Section 29

(1) Banks shall calculate and systematically monitor the amount of their own funds.

(2) Parent banks as defined in Section 44(2)(a) shall calculate and continuously monitor the amount of their own funds, as well as the own funds of their consolidated groups.

(3) The own funds of a bank are own funds as defined in other legislation.<sup>30a</sup>

(4) Banks shall maintain their own funds at least at the level of their share capital as defined in Section 7(2)(a). This is without prejudice to the relevant provisions of other legislation.<sup>30b</sup>

## Section 29a

### Recommendations on additional own funds

(1) Národná banka Slovenska shall regularly review the level of the internal capital set in accordance with Section 27(7) and (8) as part of the review and evaluation performed in accordance with Section 6(2), including the results of the stress tests referred to in Section 6(27). Pursuant to the review and evaluation referred to in the first sentence, Národná banka Slovenska shall determine for each bank the overall level of own funds it considers appropriate.

(2) On the basis of the review and evaluation referred to in paragraph 1, Národná banka Slovenska shall communicate its recommendations on additional own funds to banks. The recommendations shall determine the own funds exceeding the relevant amount of own funds required pursuant to other legislation,<sup>30ba</sup> the specific own funds requirement imposed pursuant to Section 50(1)(m), the combined buffer requirement or the requirement in excess of the leverage ratio buffer requirement,<sup>30bb</sup> which are needed to reach the overall level of own funds considered appropriate by Národná banka Slovenska.

(3) The recommendations of Národná banka Slovenska pursuant to paragraph 2 shall be bank-specific. The recommendations on additional own funds may also cover risks addressed by the specific own funds requirement imposed pursuant to Section 50(1)(m) only to the extent that it covers aspects of those risks that are not already covered under that requirement.

(4) Own funds that are used to meet the recommendations communicated in accordance with paragraph 2 to address risks other than the risk of excessive leverage shall not be used by banks to meet any of the following:

- (a) the own funds requirement set out in other legislation;<sup>30bc</sup>
- (b) the specific own funds requirement laid down in Section 29b imposed by Národná banka Slovenska to address risks other than the risk of excessive leverage and the combined buffer requirement.

(5) Own funds that are used to meet the recommendations communicated in accordance with paragraph 2 to address the risk of excessive leverage shall not be used by banks to meet:

- (a) the own funds requirement set out in other legislation;<sup>30bd</sup>
- (b) the specific own funds requirement laid down in Section 29b imposed by Národná banka Slovenska to address the risk of excessive leverage and the leverage ratio buffer requirement.

(6) Failure to meet the recommendations on additional own funds referred to in paragraph 2 where a bank meets the relevant own funds requirements set out in other legislation,<sup>30ba</sup> the specific own funds requirement imposed pursuant to Section 50(1)(m) and, as relevant, the combined buffer requirement or the leverage ratio buffer requirement, shall not trigger the restrictions referred to in Sections 33k or 33ka.

### **Section 29b** **Specific own funds requirement**

(1) On the basis of the review and evaluation carried out in accordance with Section 6(2), (24) and (25) and Section 33, Národná banka Slovenska shall, pursuant to Section 50(1)(m), only impose on the bank concerned a specific own funds requirement to cover the risks incurred by the bank due to its activities, including those reflecting the impact of certain economic and market developments on the bank's risk profile, if:

- (a) the bank is exposed to risks or elements of risks that are not covered or not sufficiently covered by the own funds requirements set out in other legislation;<sup>30ba</sup>
- (b) the banks do not meet the requirements set out in Section 23(1) to (5) and Section 27(7) or in other legislation<sup>30be</sup> and it is unlikely that other supervisory measures imposed by Národná banka

Slovenska would be sufficient to ensure that those requirements can be met within an appropriate timeframe;

- (c) the valuation adjustments referred to in Section 39 are deemed to be insufficient to enable the bank to sell or hedge out its positions within a short period without incurring material losses under normal market conditions;
- (d) the non-compliance with the requirements for the application of the internal approach under Sections 30 to 32 will, according to Národná banka Slovenska, lead to inadequate own funds requirements;
- (e) the bank repeatedly fails to establish or maintain an adequate level of additional own funds to cover the recommendation communicated in accordance with Section 29a(2); or
- (f) Národná banka Slovenska deems other bank-specific situations to raise material supervisory concerns.

(2) For the purposes of paragraph 1(a), risks or elements of risk shall only be considered as not covered or not sufficiently covered by the own funds requirements set out in other legislation<sup>30ba</sup> where the amounts, types and distribution of capital considered adequate by Národná banka Slovenska, taking into account the own funds internally determined in accordance with Section 27(7), are higher than the own funds requirements set out in other legislation.<sup>30ba</sup> For the purposes of the first sentence, Národná banka Slovenska shall assess, taking into account the risk profile of each individual bank, the risks and elements of such risks to which the bank concerned is exposed, including:

- (a) bank-specific risks or elements of such risks that are explicitly excluded from or not explicitly addressed by the own funds requirements set out in other legislation;<sup>30ba</sup>
- (b) bank-specific risks or elements of such risks likely to be underestimated despite compliance with the applicable requirements set out in other legislation.<sup>30ba</sup>

(3) For the purposes of paragraph 2, the capital considered adequate shall cover all risks or elements of risks identified as material in accordance with the second sentence of paragraph 2 that are not covered or not sufficiently covered by the own funds requirements set out in other legislation.<sup>30ba</sup>

(4) Interest rate risk arising from non-trading book positions may be considered material at least in the cases referred to in Section 33(1), unless Národná banka Slovenska, in performing the review and evaluation, come to the conclusion that the bank's management of interest rate risk arising from non-trading book activities is adequate and that the bank is not excessively exposed to interest rate risk arising from non-trading book activities.

(5) Where additional own funds are required to address risks other than the risk of excessive leverage not sufficiently covered by other legislation,<sup>30bd</sup> Národná banka Slovenska shall determine the level of the specific own funds requirement under paragraph 1(a) as the difference between the own funds considered adequate pursuant to paragraph 2 and the relevant own funds requirements set out in other legislation.<sup>30bf</sup>

(6) Where additional own funds are required to address the risk of excessive leverage not sufficiently covered by other legislation,<sup>30bd</sup> Národná banka Slovenska shall determine the level of the specific own funds requirement under paragraph 1(a) as the difference between the own funds considered adequate pursuant to paragraph 2 and the relevant own funds requirements set out in other legislation.<sup>30bg</sup>

(7) Unless paragraph 9 provides otherwise, banks shall meet the specific own funds requirement imposed by Národná banka Slovenska under Section 50(1)(m) to address risks other than the risk of excessive leverage with own funds that satisfy the following conditions:

- (a) at least three quarters of the specific own funds requirement shall be met with Tier 1 capital;
- (b) at least three quarters of the Tier 1 capital referred to in point (a) shall be composed of Common Equity Tier 1 capital.

(8) Banks shall meet the specific own funds requirement imposed by Národná banka Slovenska under Section 50(1)(m) to address the risk of excessive leverage with Tier 1 capital, unless paragraph 9 provides otherwise.

(9) Where warranted by the specific circumstances of a bank, Národná banka Slovenska may require the bank to meet its specific own funds requirement with a higher portion of Tier 1 capital or Common Equity Tier 1 capital than required under paragraphs 7 or 8.

(10) Where Národná banka Slovenska imposes on a bank a corrective measure under Section 50(1)(m) to address risks other than the risk of excessive leverage, own funds that are used to meet the specific own funds requirement shall not be used to meet any of the following:

- (a) the own funds requirement set out in other legislation;<sup>30bc</sup>
- (b) the combined buffer requirement set out in Section 33a(1)(i);
- (c) the recommendation on additional own funds communicated in accordance with Section 29a to address risks other than the risk of excessive leverage.

(11) Where Národná banka Slovenska imposes on a bank a corrective measure under Section 50(1)(m) to address risk of excessive leverage not sufficiently covered by other legislation,<sup>30bd</sup> own funds that are used to meet the specific own funds requirement shall not be used to meet any of the following:

- (a) the own funds requirement set out in other legislation;<sup>30bd</sup>
- (b) the leverage ratio buffer requirement;
- (c) the recommendation on additional own funds communicated in accordance with Section 29a to address risks of excessive leverage.

(12) Národná banka Slovenska shall duly justify to each bank the decision to impose a corrective measure under Section 50(1)(m) imposing a specific own funds requirement, at least by giving a clear account of the full assessment of the elements referred to in paragraphs 1 to 11. Where Národná banka Slovenska imposes on a bank a corrective measure under Section 50(1)(m) imposing a specific own funds requirement, that justification shall include, in the case set out in paragraph 1(e), a specific statement of the reasons for which the imposition of recommendation on additional own funds under Section 29a is no longer considered sufficient.

### **Section 29c**

Národná banka Slovenska shall notify the Resolution Council of any recommendations on additional own funds communicated to banks in accordance with Section 29a(2) and of specific own funds requirements imposed on banks pursuant to Section 50(1)(m).

### **Section 30**

(1) The use of the internal ratings-based approach for credit risk and its modification are subject to prior approval by Národná banka Slovenska. Banks, parent banks, and their banking

subsidiaries shall, after obtaining prior approval from Národná banka Slovenska under other legislation,<sup>30c</sup> apply the internal ratings-based approach for credit risk to all their exposures.

(2) Banks intending to implement the internal ratings-based approach for credit risk on a sequential basis shall need the prior approval of Národná banka Slovenska; sequential implementation is possible in relation to the individual classes defined in other legislation,<sup>30d</sup> the bank's individual organisational units, or for the use of own estimates of loss given default or own estimates of conversion factors for the calculation of risk weights for exposures classified under other legislation.<sup>30e</sup>

(3) When granting prior approval under paragraph 2, Národná banka Slovenska shall stipulate a reasonable period and conditions for the sequential use of the internal ratings-based approach for credit risk. The conditions shall be stipulated so as to ensure that, in respect of the exposure classes defined in other legislation<sup>30d</sup> or the bank's organisational units, the use of the internal ratings-based approach under other legislation<sup>30f</sup> is not postponed with the aim of achieving lower own funds requirements determined according to the standardised approach for credit risk for those exposure classes or those organisational units. In regard to the sequential use of own estimates of loss given default or own estimates of conversion factors<sup>30g</sup> for the calculation of risk weights for exposures classified under other legislation,<sup>30e</sup> Národná banka Slovenska shall proceed as according to the previous sentence.

(4) Národná banka Slovenska shall issue prior approval under paragraph 1 for banks having an appropriate system in place for the management and assignment of ratings to exposures, which satisfies the technical requirements and meets the conditions set out in other legislation.<sup>30h</sup> Národná banka Slovenska shall monitor the application of such systems for managing and assigning ratings to exposures.

(5) A bank applying for prior approval from Národná banka Slovenska for the use of own estimates of loss given default or own estimates of conversion factors shall demonstrate that it has been employing own estimates of loss given default or own estimates of conversion factors in a manner defined in other legislation.<sup>30h</sup>

### Section 31

(1) To determine the degree of market risk, banks may use their own model for its calculation, instead of a simplified approach defined in other legislation,<sup>30i</sup> or a method combined with this approach, provided that the calculation is based on the conditions laid down in other legislation.<sup>30j</sup> The use or modification of an own model shall require the prior approval of Národná banka Slovenska.

(2) Národná banka Slovenska shall issue prior approval under paragraph 1 for banks satisfying the conditions set out in other legislation.<sup>30j</sup>

(3) In connection with the issuance of prior approval under paragraph 1, Národná banka Slovenska may additionally request a bank to submit a report compiled by an auditor or by another person specialising in the development or assessment of risk calculation models if the accuracy of the bank's own market risk calculation model cannot be assessed from the documents presented for the verification of compliance with the requirements laid down in other legislation.<sup>30j</sup>

(4) Where the short position falls due before the long position, the bank shall take measures against the risk of a shortage of liquidity.

(5) The elements of an application for prior approval under paragraph 1 and the documents attached thereto shall be specified in a decree<sup>23</sup> issued by Národná banka Slovenska and promulgated in the Collection of Laws.

(6) Where a bank exceeds several multiplication factors<sup>30k</sup> or fails to meet the conditions stipulated for the issuance of prior approval under paragraph 1, Národná banka Slovenska may withdraw the prior approval granted or impose the necessary measures to remedy the situation. Apart from the measures referred to in Section 50, these measures may include the preparation of a recovery plan in accordance with the conditions under which the prior approval was issued, with concrete deadlines for submission and implementation. If the bank fails to submit and implement a recovery plan within the stipulated time limit, the prior approval granted under paragraph 1 shall be withdrawn.

### **Section 31a**

#### **Interest rate risk arising from non-trading book activities**

(1) Banks shall implement internal systems or use a standardised methodology or simplified standardised methodology to identify, evaluate, manage and mitigate risks arising from potential changes in interest rates that affect the economic value of equity and net interest income from the bank's non-trading book activities. A standardised methodology or simplified standardised methodology used by a bank must be in accordance with other legislation laying down regulatory technical standards issued in accordance with other legislation.<sup>13o</sup>

(2) Banks shall implement internal systems for assessing and monitoring the risks arising from potential changes in credit spreads that affect the economic value of equity and net interest income from the bank's non-trading book activities.

(3) Národná banka Slovenska may require a bank to use a standardised methodology under paragraph 1 to manage interest rate risk arising from non-trading book activities if the bank's internal systems for managing the interest rate risk arising from non-trading book activities are not satisfactory.

(4) Národná banka Slovenska may require a small and non-complex bank as defined in other legislation<sup>30ka</sup> to use a standardised methodology under paragraph 1 to manage interest rate risk arising from non-trading book activities if Národná banka Slovenska considers that the simplified standardised methodology under paragraph 1 is not adequate to capture interest rate risk arising from the non-trading book activities of that bank.

### **Section 32**

(1) Apart from the standardised approach for operational risk, banks may also use other approaches and the corresponding indicators for operational risk under other legislation;<sup>30l</sup> other approaches and indicators for operational risk may only be used with the prior approval of Národná banka Slovenska.

(2) Národná banka Slovenska shall issue prior approval under paragraph 1 for banks satisfying the conditions set out in other legislation.<sup>30l</sup>

### **Section 33**

(1) Národná banka Slovenska shall impose on a bank a corrective measure in accordance with Section 50(1) or specify modelling and parametric assumptions other than those set in accordance with special legislation laying down regulatory technical standards issued in accordance with other legislation,<sup>130</sup> at least in the following cases:

- (a) where a bank's economic value of equity declines by more than 15% of its Tier 1 capital as a result of a sudden and unexpected change in interest rates as set out in any of the six interest rate shock scenarios defined in special legislation laying down regulatory technical standards issued in accordance with other legislation,<sup>130</sup>
- (b) where a bank's net interest income experiences a large decline as a result of a sudden and unexpected change in interest rates as set out in any of the two interest rate shock scenarios defined in special legislation laying down regulatory technical standards issued in accordance with other legislation.<sup>130</sup>

(2) For the purposes of this Act, 'the economic value of a bank' means the difference between the fair value of interest rate-sensitive assets recorded in the banking book and the fair value of interest rate-sensitive liabilities recorded in the banking book; interest rate-sensitive assets and interest rate-sensitive liabilities are assets and liabilities whose fair value varies according to changes in market interest rates.

(3) In a decree<sup>23</sup> to be promulgated in the Collection of Laws, Národná banka Slovenska shall give a precise definition of what is meant by a 'sudden and unexpected change in market interest rates'.

(4) Where Národná banka Slovenska considers, based on a review and evaluation carried out in accordance with Section 6(2), that the bank's management of interest rate risk arising from non-trading book activities is adequate and that the bank is not excessively exposed to interest rate risk arising from non-trading book activities, it shall not be obliged to impose a corrective measure or specify other modelling and parametric assumptions as referred to in paragraph 1.

### Section 33a

(1) For the purposes of this Act, the following definitions apply:

- (a) 'systemically important institution' means an EU parent bank, an EU parent financial holding company, an EU parent mixed financial holding company, or a bank the failure or malfunction of which could lead to systemic risk;
- (b) 'global systemically important institution' (G-SII) means a bank classified by Národná banka Slovenska as systemically important under Section 33d(1) and (2); a G-SII may also mean a group headed by an EU parent bank, an EU parent financial holding company, or an EU parent mixed financial holding company or a bank that is not a subsidiary of an EU parent bank, an EU parent financial holding company, or an EU parent mixed financial holding company;
- (c) 'other systemically important institution' (O-SII) means a bank classified by Národná banka Slovenska as systemically important under Section 33d(1) and (4); an O-SII may also mean a bank or a group headed by an EU parent bank, and EU parent financial holding company, an EU parent mixed financial holding company, a parent bank, a parent financial holding company, or a mixed financial holding company;
- (d) 'non-EU G-SII' means a global systemically important bank established outside of the EU as referred to in other legislation,<sup>301a</sup>
- (e) 'institution-specific countercyclical capital buffer' means the own funds that a bank is required to maintain in accordance with Section 33c;
- (f) 'G-SII buffer' means the own funds that are required to be maintained in accordance with Section 33d(5);

- (g) ‘O-SII buffer’ means the own funds that may be required to be maintained in accordance with Section 33d(6);
- (h) ‘systemic risk buffer’ means the own funds that a bank may or is required to maintain in accordance with Section 33e;
- (i) ‘combined buffer requirement’ means the total Common Equity Tier 1 capital as defined in other legislation,<sup>30m</sup> required to meet the requirement for the capital conservation buffer extended in accordance with paragraphs 2 and 3 and Section 33d(15) and (16) by the following, as applicable:
  1. an institution-specific countercyclical capital buffer;
  2. a G-SII buffer;
  3. an O-SII buffer;
  4. a systemic risk buffer;
- (j) ‘countercyclical capital buffer rate’ means the rate that banks must apply in order to calculate their institution-specific countercyclical capital buffer, and that is set in accordance with Sections 33g and 33h or by a designated authority of a third country, as the case may be;
- (k) ‘financial holding company’ means financial holding company as defined in other legislation;<sup>30n</sup>
- (l) ‘mixed-activity holding company’ means mixed-activity holding company as defined in other legislation;<sup>30o</sup>
- (m) ‘parent bank’ means parent bank as defined in other legislation;<sup>30p</sup>
- (n) ‘parent financial holding company’ means parent financial holding company as defined in other legislation;<sup>30r</sup>
- (o) ‘EU parent bank’ means EU parent bank as defined in other legislation;<sup>30s</sup>
- (p) ‘EU parent financial holding company’ means EU parent financial holding company as defined in other legislation;<sup>30t</sup>
- (r) ‘designated authority of a Member State’ means a Member State’s authority responsible for setting the countercyclical capital buffer rate for that Member State or for setting the systemic risk buffer;
- (s) ‘mixed financial holding company’ means a parent undertaking,<sup>30ta</sup> other than a regulated person, which together with its subsidiaries, at least one of which is a regulated person having a registered office in a Member State, and together with other controlled persons, constitutes a financial conglomerate;
- (t) ‘parent mixed financial holding company’ means parent mixed financial holding company as defined in other legislation;<sup>30tb</sup>
- (u) ‘EU parent mixed financial holding company’ means EU parent mixed financial holding company as defined in other legislation.<sup>30tc</sup>

(2) Common Equity Tier 1 capital under other legislation<sup>30m</sup> held by banks to meet the combined buffer requirement as referred to in paragraph 1(i) shall not be used to meet:

- (a) the own funds requirements set out in other legislation;<sup>30bc</sup>
- (b) the specific own funds requirement communicated in accordance with Section 29a to address risks other than the risk of excessive leverage;
- (c) recommendations on additional own funds communicated in accordance with Section 29a to address risks other than the risk of excessive leverage;
- (d) the risk-based elements of the requirements set out in other legislation.<sup>30td</sup>

(3) Common Equity Tier 1 capital under other legislation<sup>30m</sup> held by banks to meet one of the elements of the combined buffer requirements set out in paragraph 1(i) shall not be used to meet other applicable elements of the combined buffer requirements set out in in paragraph 1(i).

### Section 33b



(1) In addition to the Common Equity Tier 1 capital<sup>30m</sup> maintained to meet the own funds requirements imposed under other legislation,<sup>30bc</sup> banks shall also maintain a capital conservation buffer of Common Equity Tier 1 capital<sup>30m</sup> equal to 2.5% of their total risk exposure amount calculated in accordance with other legislation<sup>30v</sup> on an individual and consolidated basis.

(2) Banks shall not use Common Equity 1 capital that is maintained to meet the requirements referred to in paragraph 1 to meet the requirements imposed under Section 6, those of a corrective measure imposed under Section 50, and the own funds requirements laid down in other legislation.<sup>30bc</sup>

(3) Where a bank fails to meet fully the requirements referred to in paragraph 1, it is subject to the restrictions on distributions set out in Section 33k(2) and (3).

### Section 33c

(1) Apart from meeting the requirements imposed under Section 33b(1), banks shall also maintain an institution-specific countercyclical capital buffer of Common Equity Tier 1 capital<sup>30m</sup> equal to their total risk exposure amount calculated according to other legislation,<sup>30v</sup> multiplied by the weighted average of the countercyclical capital buffer rates calculated in accordance with Section 33j on an individual and consolidated basis under other legislation.<sup>30w</sup>

(2) Banks shall not use Common Equity Tier 1 capital that is maintained to meet the requirements mentioned in paragraph 1 to meet the requirements imposed under Section 6, those of a corrective measure imposed under Section 50, the own funds requirements laid down in other legislation,<sup>30u</sup> and the requirements imposed under Section 33b(1).

(3) Where a bank fails to meet fully the requirements referred to in paragraph 1, it is subject to the restrictions on distributions set out in Section 33k(2) and (3).

### Section 33d

(1) Národná banka Slovenska shall identify G-SIIs in accordance with paragraph 2 on a consolidated basis and O-SIIs in accordance with paragraph 4 on an individual basis, consolidated basis, or sub-consolidated basis.

(2) Národná banka Slovenska shall identify and allocate G-SIIs into the respective subcategories according to the criteria defined in paragraph 12 and the overall score calculated according to these criteria. The criteria shall have the same weight and consist of the following quantifiable indicators:

- (a) size of the group;
- (b) interconnectedness of the group with the financial system;
- (c) substitutability of the banking services provided by the group;
- (d) complexity of the group;
- (e) cross-border activity of the group, including cross-border activity between Member States and between Member States and a third country.

(3) When categorising G-SIIs in accordance with paragraph 13(c), Národná banka Slovenska may take into account the criteria referred to in paragraph 2 and an additional overall score calculated according to additional criteria, which have the same weight and consist of quantifiable indicators. The additional criteria to determine the additional overall score are:

- (a) the criteria referred to in paragraph 2(a) to (d);
- (b) cross-border activity of the group, excluding the group's activities across participating Member States as referred to in other legislation.<sup>30wa</sup>

(4) Národná banka Slovenska shall identify O-SIIs on the basis of at least one of the following criteria:

- (a) size;
- (b) importance for the economy of the European Union or of the Slovak Republic;
- (c) significance of cross-border activities;
- (d) interconnectedness of the bank or group with the financial system.

(5) Apart from meeting the requirements imposed under Sections 33b(1) and 33c(1), banks shall also maintain a G-SII buffer of Common Equity Tier 1 capital on a consolidated basis, in an amount corresponding to the subcategory defined in paragraph 12, in which the G-SII is included.

(6) Apart from meeting the requirements imposed under Sections 33b(1) and 33c(1), banks shall also maintain an O-SII buffer on an individual, consolidated, or sub-consolidated basis, in the form of Common Equity Tier 1 capital, the amount of which may be set by Národná banka Slovenska up to 3% of the total risk exposure amount calculated in accordance with other legislation,<sup>30v</sup> according to the criteria set out in paragraph 4, unless paragraph 7 provides otherwise.

(7) Subject to an authorisation granted by the Commission, Národná banka Slovenska may require an O-SII, on an individual, consolidated, or sub-consolidated basis, to maintain an O-SII buffer of at least 3% of the total risk exposure amount calculated in accordance with other legislation;<sup>30v</sup> that buffer shall consist of Common Equity Tier 1 capital.

(8) Národná banka Slovenska shall set the O-SII buffer in a way that it does not entail disproportionate adverse effects on the whole or parts of the financial system of other Member States or of the Union as a whole forming or creating an obstacle to the functioning of the internal market. Národná banka Slovenska shall review the O-SII buffer at least annually.

(9) Before setting or resetting an O-SII buffer, Národná banka Slovenska shall notify the European Systemic Risk Board one month before the publication of the decision referred to in paragraph 6 and three months before the publication of its decision referred to in paragraph 7. The notification shall set out in detail:

- (a) the justification for why the O-SII buffer is considered likely to be effective and proportionate to mitigate the risk;
- (b) an assessment of the likely positive or negative impact of the O-SII buffer on the internal market of the Slovak Republic;
- (c) the O-SII buffer rate that Národná banka Slovenska will require to be maintained.

(10) Where an O-SII is a subsidiary of either a G-SII or an O-SII which is either a bank or a group headed by an EU parent bank, and subject to an O-SII buffer on a consolidated basis, the buffer that applies on an individual or sub-consolidated basis for the O-SII shall not exceed the lower of:

- (a) the sum of the higher of the G-SII or the O-SII buffer rate applicable to the group on a consolidated basis and 1% of the total risk exposure amount calculated in accordance with other legislation;<sup>30v</sup>
- (b) 3% of the total risk exposure amount calculated in accordance with other legislation,<sup>30v</sup> or the O-SII buffer rate the Commission has authorised to be applied to the group on a consolidated basis in accordance with paragraph 7..

(11) Paragraph 10 is without prejudice to the provisions of paragraph 6 and Section 33k.

(12) G-SIIs shall be allocated to one of the six subcategories given below. The lowest boundary and the boundaries between each subcategory shall be determined by Národná banka Slovenska on the basis of the results calculated according to the criteria referred to in paragraph 2. The cut-off results between adjacent subcategories shall be defined clearly and shall adhere to the principle that there is a constant linear increase of systemic significance between each subcategory resulting in a linear increase in the requirement of additional Common Equity Tier 1 capital, with the exception of subcategories 5 and 6. For the purposes of this paragraph, ‘systemic importance’ is the expected impact exerted by the G-SII’s distress on the global financial market. A G-SII buffer shall be assigned as a percentage of the total risk exposure amount calculated in accordance with other legislation<sup>30v</sup> as follows:

- (a) for subcategory 1: 1.0%;
- (b) for subcategory 2: 1.5%;
- (c) for subcategory 3: 2.0%;
- (d) for subcategory 4: 2.5%;
- (e) for subcategory 5: 3.0%;
- (f) for subcategory 6: 3.5%.

(13) Without prejudice to paragraphs 1 and 12, Národná banka Slovenska may:

- (a) re-allocate a G-SII from a lower subcategory to a higher subcategory;
- (b) allocate a person under Section 33a(1)(c) that has an overall result as referred to in paragraph 2 that is lower than the cut-off result of subcategory 1 under paragraph 12 to that subcategory or to a higher subcategory, thereby designating it as a G-SII;
- (c) taking into account the Single Resolution Mechanism as referred to in other legislation,<sup>30wb</sup> on the basis of the additional overall result referred to in paragraph 3 re-allocate a G-SII from a higher subcategory to a lower subcategory.

(14) Národná banka Slovenska shall notify to the European Systemic Risk Board the list and names of the G-SIIs and O-SIIs and the respective subcategory to which each G-SII is allocated, and it shall also disclose this information on its website. The notification under the first sentence shall contain full reasons why the procedure set out in paragraph 12 has or has not been applied. Národná banka Slovenska shall review annually the identification of G-SIIs and O-SIIs and the G-SII allocation into the respective subcategories and report the result to the G-SII or O-SII concerned and to the European Systemic Risk Board; the updated list of identified G-SIIs and O-SIIs and the subcategory into which each identified G-SII is allocated shall be published on the NBS website.

(15) Where a group, on a consolidated basis, is subject to a G-SII buffer and to an O-SII buffer the higher buffer applies.

(16) Where a bank is subject to a systemic risk buffer, set in accordance with Section 33e, that buffer shall be cumulative with the O-SII buffer or the G-SII buffer. Where the sum of the systemic risk buffer rate as calculated in accordance with Section 33e(7), (8) or (9) and the O-SII buffer rate or the G-SII buffer rate to which the same bank is subject is higher than 5%, the procedure set out in paragraph 7 applies.

### Section 33e

(1) Národná banka Slovenska shall set a systemic risk buffer of Common Equity Tier 1 capital for banks. Národná banka Slovenska may require banks, on an individual, consolidated or sub-consolidated basis under other legislation,<sup>30y</sup> to maintain the buffer referred to in the first sentence on all or a subset of exposures as referred to in paragraph 2, in order to prevent and mitigate systemic or macroprudential risks not covered by other legislation<sup>30x</sup> and Sections 33c and 33d, in the meaning

of a risk of disruption in the financial system with the potential to have serious negative consequences for the financial sector and the economy of the Slovak Republic. The following formula shall be used to calculate the systemic risk buffer:

$$BSR = r_T E_T + \sum_i r_i E_i$$

where:

BSR = the systemic risk buffer;

$r_T$  = the buffer rate applicable to the total risk exposure amount of a bank;

$E_T$  = the total risk exposure amount of a bank calculated in accordance with other legislation;<sup>30v</sup>

$i$  = the index denoting the subset of exposures as referred to in paragraph 2;

$r_i$  = the buffer rate applicable to the risk exposure amount of the subset of exposures  $i$ ;

$E_i$  = the risk exposure amount for the subset of exposures  $i$  calculated in accordance with other legislation.<sup>30v</sup>

(2) A systemic risk buffer may apply to:

- (a) all exposures located in the Slovak Republic;
- (b) the following sectoral exposures located in the Slovak Republic:
  1. all exposures to natural persons which are secured by residential property;
  2. all exposures to legal persons which are secured by mortgages on commercial immovable property;
  3. all exposures to natural persons excluding those specified in point 1;
  4. all exposures to legal persons excluding those specified in point 2;
- (c) all exposures located in other Member States, unless paragraphs 9 and 13 provide otherwise;
- (d) sectoral exposures, as identified in point (b), located in other Member States for which Národná banka Slovenska recognised a buffer rate set in accordance with Section 33f;
- (e) exposures located in third countries;
- (f) subsets of any of the exposure categories identified in point (b).

(3) Národná banka Slovenska shall set a systemic risk buffer for all exposures, or a subset of exposures as referred to in paragraph 2, of all banks, or one or more subsets of those banks, in steps of adjustment of 0.5 percentage points or a multiple thereof. Národná banka Slovenska may introduce different systemic risk buffers for different banks and subsets of exposures. The systemic risk buffer shall not address risks that are covered by Sections 33c and 33d.

(4) When requiring a systemic risk buffer to be maintained, Národná banka Slovenska shall ensure that the systemic risk buffer does not entail disproportionate adverse effects on the whole or parts of the financial system of other Member States or of the European Union as a whole forming or creating an obstacle to the proper functioning of the internal market of the Union. Národná banka Slovenska shall review the systemic risk buffer at least every second year. The systemic risk buffer is not to be used to address risks that are covered by buffers provided for in Sections 33c and 33d.

(5) Before the publication of the notification referred to in paragraph 10, Národná banka Slovenska shall notify the European Systemic Risk Board of the setting or resetting of the systemic risk buffer rate. Where the bank to which one or more systemic risk buffer rates apply is a subsidiary the parent of which is established in another Member State, Národná banka Slovenska shall forward such notification to the competent or designated supervisory authorities of that Member State. Where the systemic risk buffer rate applies to exposures located outside of the European Union, Národná banka Slovenska shall also notify the European Systemic Risk Board. Such notification shall set out in detail:

- (a) the systemic or macroprudential risks in the Slovak Republic;
- (b) the reasons why the dimension of the systemic or macroprudential risk threatens the stability of the financial system in the Slovak Republic justifying the systemic risk buffer rate;
- (c) the justification for why the systemic risk buffer is considered likely to be effective and proportionate to mitigate the risk;
- (d) an assessment of the likely positive or negative impact of the systemic buffer on the internal market of the European Union;
- (e) the systemic risk buffer rate or rates that Národná banka Slovenska intends to impose and the exposures to which such rates apply and the institutions which are subject to such rates;
- (f) where the systemic risk buffer rate applies to all exposures, a justification of why the authority considers that the systemic risk buffer is not duplicating the functioning of the O-SII buffer provided for in Section 33d.

(6) Where the decision to set the systemic risk buffer rate results in a decrease or no change from the previously set buffer rate, Národná banka Slovenska shall only comply with paragraph 5.

(7) Where the setting or resetting of a systemic risk buffer rate on any set or subset of exposures referred to in paragraph 2 subject to one or more systemic risk buffers results in a combined systemic risk buffer rate lower than 3% for any of those exposures, Národná banka Slovenska shall notify the European Systemic Risk Board in accordance with paragraph 5 one month before the publication of the notification referred to in paragraph 10. The recognition of a systemic risk buffer rate pursuant to Section 33f shall not count towards the combined systemic risk buffer threshold as referred to in the first sentence.

(8) Where the setting or resetting of a systemic risk buffer rate on any set or subset of exposures referred to in paragraph 2 subject to one or more systemic risk buffers results in a combined systemic risk buffer rate at a level higher than 3% and up to 5% for any of those exposures, Národná banka Slovenska shall request in the notification submitted in accordance with paragraph 5 the Commission's opinion. Where the opinion of the Commission is negative, Národná banka Slovenska shall comply with that opinion or give reasons for not doing so. Where a bank is a subsidiary the parent of which is established in another Member State, Národná banka Slovenska shall request in the notification submitted in accordance with paragraph 5 a recommendation by the Commission and the European Systemic Risk Board. Where the opinion of the competent authority or designated authority of the parent is negative and in the case of a negative recommendation of both the Commission and the European Systemic Risk Board, Národná banka Slovenska may refer the matter to the European supervisory authority (European Banking Authority) and request its assistance in accordance with other legislation<sup>19</sup> and it shall set the systemic buffer rate in accordance with the decision of the European supervisory authority (European Banking Authority).

(9) Where the setting or resetting of a systemic risk buffer rate on any set or subset of exposures referred to in paragraph 2 subject to one or more systemic risk buffers results in a combined systemic risk buffer rate higher than 5% for any of those exposures, Národná banka Slovenska shall seek the authorisation of the Commission and set the systemic buffer rate in accordance with the Commission's decision.

(10) Národná banka Slovenska shall announce the setting or resetting of a systemic risk buffer by publication on its website. That publication shall include at least the following information:

- (a) the systemic risk buffer rate or rates;
- (b) the banks to which the systemic risk buffer applies;
- (c) the exposures to which the systemic risk buffer rate or rates apply;
- (d) a justification for setting or resetting the systemic risk buffer rate or rates;

- (e) the date from which the banks shall apply the setting or resetting of the systemic risk buffer;
- (f) the names of the countries where exposures located in those countries are subject to the systemic risk buffer.

(11) Where the publication as referred to in paragraph 10(d) could jeopardise the stability of the financial system, such information shall not be included in the publication.

(12) Where a bank fails to fully meet the requirement set out in paragraph 1, it is subject to the restrictions on distributions set out in Section 33k(2) and (3). Where the application of the restrictions on distributions leads to an unsatisfactory improvement of the Common Equity Tier 1 capital of the bank in the light of the relevant systemic risk, Národná banka Slovenska may take additional measures in accordance with Sections 50 and 63.

(13) Where Národná banka Slovenska decides to set the systemic risk buffer on the basis of exposures located in other Member States, the buffer shall be set equally for all Member States, unless the buffer is set in accordance with Section 33f.

### **Section 33f**

(1) Národná banka Slovenska may recognise a systemic risk buffer rate set in accordance with Section 33e and may apply that rate to domestically authorised banks for exposures located in the Member State whose competent or designated supervisory authority sets that buffer rate.

(2) Where Národná banka Slovenska recognises a systemic risk buffer rate for banks in accordance with paragraph 1, it shall notify the European Systemic Risk Board.

(3) When deciding whether to recognise a systemic risk buffer rate, Národná banka Slovenska shall take into consideration the information presented by the Member State that sets that rate in accordance with Section 33e(5),(6) and (10).

(4) When setting a systemic risk buffer rate in accordance with Section 33e, Národná banka Slovenska may ask the European Systemic Risk Board to issue a recommendation as referred to in other legislation<sup>30za</sup> to one or more Member States which may recognise the systemic risk buffer rate, to recognise the buffer rate in question.

(5) Where Národná banka Slovenska recognises a systemic risk buffer rate for banks in accordance with paragraph 1, that systemic risk buffer may be cumulative with the systemic risk buffer applied in accordance with Section 33e, provided that the buffers address different risks. Where the systemic risk buffer referred to in paragraph 1 addresses the same risks as the systemic risk buffer provided for in Section 33e, only the higher buffer applies.

### **Section 33g**

(1) Národná banka Slovenska shall assess, on a quarterly basis, the intensity of cyclical systemic risk and the adequacy of the countercyclical capital buffer; when necessary, it shall decide on setting the countercyclical buffer rate, taking into account:

- (a) the buffer guide calculated in accordance with paragraph 2 as a reference for setting the countercyclical buffer rate;
- (b) any current guidance issued by the European Systemic Risk Board;
- (c) other variables that Národná banka Slovenska considers relevant for addressing cyclical systemic risk.

(2) Národná banka Slovenska shall calculate for every quarter a buffer guide as a reference for setting the countercyclical buffer rate. In assessing the buffer guide, Národná banka Slovenska shall duly take into account the specificities of the Slovak economy with regard to:

- (a) an indicator of credit growth and the risks involved, and, in particular, the changes in the ratio of credit granted to gross domestic product;
- (b) any current guidance issued by the European Systemic Risk Board.

(3) Národná banka Slovenska shall set a countercyclical capital buffer rate, expressed as a percentage of the total risk exposure amount calculated in accordance with other legislation,<sup>30v</sup> between 0% and 2.5%, calibrated in steps of 0.25 percentage point or multiples of 0.25 percentage point. Where justified on the basis of the considerations set out in paragraph 2, Národná banka Slovenska may set a countercyclical capital buffer rate in excess of 2.5% of the total risk exposure amount calculated in accordance with other legislation<sup>30v</sup> for the purposes set out in Section 33j(2).

(4) If Národná banka Slovenska sets the countercyclical buffer rate above zero for the first time or increases the prevailing countercyclical buffer rate setting, Národná banka Slovenska shall also set the date from which the banks must use that increased buffer rate for calculating their institution-specific countercyclical capital buffer. That date may be earlier than 12 calendar months after the date of announcement of the increased buffer rate only under exceptional circumstances.

(5) If Národná banka Slovenska reduces the existing countercyclical buffer rate, it shall also decide an indicative period during which no increase in the buffer rate is expected.

(6) Národná banka Slovenska shall quarterly publish on its website:

- (a) the applicable countercyclical buffer rate;
- (b) the relevant credit-to-GDP ratio and its deviation from the long-term trend;
- (c) the buffer guide calculated in accordance with paragraph 2;
- (d) a justification for that buffer rate;
- (e) where the buffer rate is increased, the date from which banks shall apply that increased buffer rate for the purpose of calculating their bank-specific countercyclical capital buffer;
- (f) where the date referred to in point (e) is less than 12 months after the date of publication under this paragraph, a justification for the shorter deadline;
- (g) where the buffer rate is decreased, the indicative period during which no increase in the buffer rate is expected, together with a justification for that period.

(7) Národná banka Slovenska shall notify each change of the countercyclical buffer rate and the required information specified in paragraph 6 to the European Systemic Risk Board.

### **Section 33h**

(1) Where a designated authority of a Member State or of a third country sets a countercyclical buffer rate in excess of 2.5% of the total risk exposure amount calculated in accordance with other legislation,<sup>30v</sup> Národná banka Slovenska may recognise that buffer rate for the calculation by domestically authorised banks of their institution-specific countercyclical capital buffer.

(2) Where Národná banka Slovenska in accordance with paragraph 1 recognises a buffer rate higher than 2.5% of the total risk exposure amount calculated under other legislation,<sup>30v</sup> it shall announce that recognition by publication on its website. The announcement shall include at least the following information:

- (a) the applicable countercyclical buffer rate;
- (b) the Member State or third countries to which it applies;
- (c) where the buffer rate is increased, the date from which banks must apply that increased buffer rate for the purposes of calculating their bank-specific countercyclical capital buffer;
- (d) where the date referred to in point (c) is less than 12 months after the date of announcement under this paragraph, a justification for the shorter deadline.

### Section 33i

(1) Where the designated authority of a third country fails to set a countercyclical capital buffer rate for that country, Národná banka Slovenska may set a countercyclical buffer rate for banks for the purposes of calculating their bank-specific countercyclical capital buffer.

(2) Where the designated authority of a third country has set a countercyclical buffer rate for that country but Národná banka Slovenska has justified doubts whether the countercyclical buffer rate set by that authority is sufficient to ensure adequate protection for banks against the risk of excessive credit growth in that country, Národná banka Slovenska may set a different countercyclical buffer rate for banks in that country for the purposes of calculating their bank-specific countercyclical capital buffer. The countercyclical buffer rate set by Národná banka Slovenska may not be lower than the figure set by the designated authority of that country, except for cases where the countercyclical buffer rate is higher than 2.5% of the total risk exposure amount calculated in accordance with other legislation<sup>30v</sup> for banks that have credit exposures in that country.

(3) The setting of a countercyclical buffer rate under paragraph 1 or (2), above the existing countercyclical buffer rate set by the authority of that country, shall also contain the date from which banks are required to use that buffer rate for the calculation of their institution-specific countercyclical capital buffer. The date from which banks are required to use the increased countercyclical buffer rate shall be maximum 12 calendar months from the date of the announced increase in the buffer rate in accordance with paragraph 4.

(4) Národná banka Slovenska shall publish any setting of a countercyclical capital buffer rate in accordance with paragraphs 1 or 2 on its website, and shall include the following information:

- (a) the countercyclical buffer rate;
- (b) the third country to which the rate applies;
- (c) a justification for the countercyclical buffer rate set;
- (d) where the buffer rate is set above zero for the first time or is increased, the date from which the institutions must apply that increased buffer rate for the purposes of calculating their bank-specific countercyclical capital buffer;
- (e) where the date referred to in point (d) is less than 12 months after the date of the publication of the setting under this paragraph, a justification for the shorter deadline.

### Section 33j

(1) The institution-specific countercyclical capital buffer rate shall be calculated as a weighted average of the countercyclical buffer rates that apply in the countries where the relevant credit exposures of the bank are located or are applied for the purposes of Section 33i(1) or (2). In order to calculate the weighted average mentioned in the first sentence, banks shall apply to each applicable countercyclical buffer rate their total own funds requirements for credit risk, determined in accordance with other legislation,<sup>30zb</sup> that relates to the relevant credit exposures in the territory in question, divided by their total own funds requirements for credit risk that relates to all of their relevant credit exposures.



(2) Where the competent supervisory authority of a Member State sets a counter-cyclical capital buffer rate in excess of 2.5% of the total risk exposure amount calculated in accordance with other legislation,<sup>30v</sup> the following buffer rates apply to the relevant credit exposures located in that Member State for the purpose of calculating the counter-cyclical capital buffer in accordance with paragraph 1:

- (a) a countercyclical buffer rate of 2.5% of the total risk exposure amount where Národná banka Slovenska has not recognised a countercyclical buffer rate exceeding 2.5% under Section 33h(1);
- (b) the countercyclical buffer rate set by a designated authority of that Member State where Národná banka Slovenska has recognised a countercyclical buffer rate exceeding 2.5% under Section 33h.

(3) Where the competent authority of a third country sets a countercyclical capital buffer rate in excess of 2.5% of the total risk exposure amount calculated in accordance with other legislation,<sup>30v</sup> the following buffer rates apply to the relevant credit risk exposures located in that country for the purpose of calculating the countercyclical capital buffer in accordance with paragraph 1:

- (a) a countercyclical buffer rate of 2.5% of the total risk exposure amount where Národná banka Slovenska has not recognised a countercyclical capital buffer rate exceeding 2.5% under Section 33h(1);
- (b) the countercyclical buffer rate set by a designated authority of that country where Národná banka Slovenska has recognised a countercyclical buffer rate exceeding 2.5% under Section 33h.

(4) Relevant credit risk exposures shall include all those exposure classes, other than those referred to in other legislation,<sup>30zc</sup> that are subject to:

- (a) the own funds requirements for credit risk under other legislation;<sup>30zb</sup>
- (b) where the exposure is held in the trading book, the own funds requirements for specific risk under other legislation<sup>30zd</sup> or for incremental default and migration risk under other legislation;<sup>30ze</sup>
- (c) where the exposure is a securitisation, the own funds requirements under other legislation.<sup>30zf</sup>

(5) Banks shall identify the geographical location of a relevant credit risk exposure in accordance with the applicable Commission directives on the issuance of regulatory technical standards.<sup>30zg</sup>

(6) For the purpose of calculating the countercyclical capital buffer in accordance with paragraph 1:

- (a) a countercyclical buffer rate for a Member State applies from the date specified in the information published in accordance with Section 33g(6)(e) or Section 33h(2)(c) if the effect of that decision is to increase the buffer rate;
- (b) except for the case mentioned in point (c), a countercyclical buffer rate for a third country applies 12 months after the date on which a change in the buffer rate was announced by the competent authority of that country, irrespective of whether that authority requires the banks established in that country to apply the change within a shorter period, if the effect of that decision is to increase the buffer rate;
- (c) where Národná banka Slovenska sets a countercyclical buffer rate for a third country under Section 33i(1) or (2), or recognises a countercyclical buffer rate for that country under Section 33h, that buffer rate applies from the date specified in the information published in accordance with Section 33i(4)(d) or Section 33h(2)(c), if the effect of that decision is to increase the buffer rate;
- (d) a countercyclical buffer rate applies immediately if the effect of the decision of Národná banka Slovenska is to reduce the buffer rate.

(7) For the purposes of paragraph 6(b), a change in the countercyclical buffer rate for a third country shall be considered to be announced on the date when it is published by the competent authority of that country in accordance with the applicable national rules.

### Section 33k

(1) Banks that meet the combined buffer requirement shall be prohibited from making a distribution in connection with Common Equity Tier 1 capital to an extent that would decrease their Common Equity Tier 1 capital to a level where the combined buffer requirement is no longer met.

(2) Banks that fail to meet the combined buffer requirement shall be required to calculate the maximum distributable amount ('MDA') in accordance with paragraph 4 and to notify Národná banka Slovenska of that MDA. Such banks shall be prohibited from undertaking any of the following actions before they have calculated the MDA:

- (a) make a distribution in connection with Common Equity Tier 1 capital;
- (b) create an obligation to pay variable remuneration or discretionary pension benefits or pay variable remuneration if the obligation to pay was created at a time when the bank failed to meet the combined buffer requirement;
- (c) make payments on additional Tier 1 instruments.

(3) Where a bank fails to meet or exceed its combined buffer requirement, it shall not distribute more than the MDA calculated in accordance with paragraph 4, through any action referred to in points (a), (b), and (c) of paragraph 2. If the bank carries out any of these actions, the MDA shall be reduced.

(4) Banks shall calculate the MDA by multiplying the sum calculated in accordance with paragraph 5 by the factor determined in accordance with paragraph 6. The MDA shall be reduced by any amount resulting from any of the actions referred to in paragraph 2.

(5) The sum to be multiplied in accordance with paragraph 4 shall consist of any interim profits not included in Common Equity Tier 1 capital pursuant to other legislation,<sup>30zh</sup> net of any distribution of profits or any payment resulting from the actions referred to in paragraph 2, plus any year-end profits not included in Common Equity Tier 1 capital pursuant to other legislation<sup>30zh</sup> net of any distribution of profits or any payment resulting from the actions referred to in paragraph 2, minus amounts which would be a payable tax if the interim profits and year-end profits were to be retained.

(6) The factor shall be determined as follows:

- (a) where the Common Equity Tier 1 capital maintained by the bank but not used to meet the own funds requirement under other legislation<sup>30bc</sup> and the corrective measure under Section 50(1)(m) imposing a specific own funds requirement in accordance with Section 29b to address risks other than the risk of excessive leverage, expressed as a percentage of the total risk exposure amount calculated in accordance with other legislation,<sup>30v</sup> is within the first (that is, the lowest) quartile of the combined buffer requirement, the factor shall be 0;
- (b) where the Common Equity Tier 1 capital maintained by the bank but not used to meet the own funds requirement under other legislation<sup>30bc</sup> and the corrective measure under Section 50(1)(m) imposing a specific own funds requirement in accordance with Section 29b to address risks other than the risk of excessive leverage, expressed as a percentage of the total risk exposure amount calculated in accordance with other legislation,<sup>30v</sup> is within the second quartile of the combined buffer requirement, the factor shall be 0.2;
- (c) where the Common Equity Tier 1 capital maintained by the bank but not used to meet the own funds requirement under other legislation<sup>30bc</sup> and the corrective measure under Section 50(1)(m)

imposing a specific own funds requirement in accordance with Section 29b to address risks other than the risk of excessive leverage, expressed as a percentage of the total risk exposure amount calculated in accordance with other legislation;<sup>30v</sup> is within the third quartile of the combined buffer requirement, the factor shall be 0.4;

- (d) where the Common Equity Tier 1 capital maintained by the bank but not used to meet the own funds requirement under other legislation<sup>30bc</sup> and the corrective measure under Section 50(1)(m) imposing a specific own funds requirement in accordance with Section 29b to address risks other than the risk of excessive leverage, expressed as a percentage of the total risk exposure amount calculated in accordance with other legislation,<sup>30v</sup> is within the fourth (that is, the highest) quartile of the combined buffer requirement or is higher than the upper bound of the fourth quartile, the factor shall be 0.6.

(7) The lower bound of the quartile of the combined buffer requirement shall be calculated as follows:

Combined buffer requirement

$$\text{Lower bound of quartile} = \frac{\text{Combined buffer requirement}}{4} \times (Q_n - 1)$$

“Qn” indicates the ordinal number of the quartile concerned.

(8) The upper bound of the quartile of the combined buffer requirement shall be calculated as follows:

Combined buffer requirement

$$\text{Upper bound of quartile} = \frac{\text{Combined buffer requirement}}{4} \times Q_n$$

“Qn” indicates the ordinal number of the quartile concerned.

(9) For the purposes of paragraphs 1 and 2, a distribution in connection with Common Equity Tier 1 capital shall include the following:

- (a) a payment of cash dividends;
- (b) a distribution of fully or partly paid bonus shares or other capital instruments referred to in other legislation;<sup>30zj</sup>
- (c) a redemption or purchase by a bank of its own shares or other capital instruments referred to in other legislation;<sup>30zj</sup>
- (d) a repayment of amounts paid up in connection with capital instruments referred to in other legislation;<sup>30zj</sup>
- (e) a distribution of items referred to in other legislation.<sup>30zk</sup>

(10) Where a bank fails to meet the combined buffer requirement and intends to distribute any of its distributable profits or undertake an action referred to in paragraph 2, it shall notify Národná banka Slovenska and provide the following information:

- (a) the amount of capital maintained by the bank, subdivided as follows:
  1. Common Equity Tier 1 capital;
  2. additional Tier 1 capital;
  3. Tier 2 capital;
- (b) the amount of the bank’s interim and year-end profits;
- (c) the maximum distributable amount calculated in accordance with paragraph 4;
- (d) the amount of distributable profits the bank intends to allocate between the following:
  1. dividend payments;
  2. share buy-backs;

3. payments in connection with additional Tier 1 instruments;
4. the payment of variable remuneration or discretionary pension benefits, whether by creation of a new obligation to pay, or payment under an obligation to pay created at a time when the bank failed to meet its combined buffer requirement.

(11) Banks shall maintain arrangements to ensure that the amount of distributable profits and the maximum distributable amount are calculated accurately and shall be able to demonstrate that accuracy to Národná banka Slovenska on request.

(12) The restrictions imposed under paragraphs 1 to 11 of this Section shall only apply to payments that result in a reduction of Common Equity Tier 1 capital or in a reduction of profits, and where a suspension of payments or failure to pay does not constitute an event of default or a condition for the commencement of proceedings under the insolvency regime applicable to banks.

(13) A bank shall be considered as failing to meet the combined buffer requirement where it does not have own funds in an amount and of the quality needed to meet at the same time the combined buffer requirement and each of the following requirements in:

- (a) other legislation<sup>30zka</sup> and the corrective measure under Section 50(1)(m) imposing a specific own funds requirement communicated in accordance with Section 29b to address risks other than the risk of excessive leverage;
- (b) other legislation<sup>30zkb</sup> and the corrective measure under Section 50(1)(m) imposing a specific own funds requirement communicated in accordance with Section 29b to address risks other than the risk of excessive leverage;
- (c) other legislation<sup>30zkc</sup> and the corrective measure under Section 50(1)(m) imposing a specific own funds requirement communicated in accordance with Section 29b to address risks other than the risk of excessive leverage.

### **Section 33ka**

(1) Banks that meet the leverage ratio buffer requirements shall ensure that distributions in connection with Tier 1 capital do not decrease their Tier 1 capital to a level where the leverage ratio buffer requirement is no longer met.

(2) A bank that fails to meet the leverage ratio buffer requirement shall calculate the maximum distributable amount (MDA) related to the leverage ratio in accordance with paragraph 4 and shall notify Národná banka Slovenska. Until the bank has calculated the MDA related to the leverage ratio and notified Národná banka Slovenska thereof, it must not:

- (a) make a distribution in connection with Common Equity Tier 1 capital;
- (b) create an obligation to pay variable remuneration or discretionary pension benefits or pay a variable remuneration component if the obligation to pay was created at a time when the bank failed to meet the leverage ratio buffer requirement; or
- (c) make payments on additional Tier 1 instruments.

(3) Where a bank fails to meet or exceed its leverage ratio buffer requirement, it shall not distribute more than the MDA calculated in accordance with paragraph 4 through any action under paragraph 2. If the bank takes any of the actions under paragraph 2, the MDA related to the leverage ratio shall be reduced.

(4) Banks shall calculate the MDA related to the leverage ratio by multiplying the sum calculated in accordance with paragraph 5 by the factor determined in accordance with paragraph 6.

The MDA related to the leverage ratio shall be reduced by any amount resulting from any of the actions referred to in the second sentence of paragraph 2.

(5) The sum to be multiplied in accordance with paragraph 4 shall consist of any interim profits not included in Common Equity Tier 1 capital pursuant to other legislation,<sup>30zh</sup> net of any distribution of profits or any payment resulting from the actions referred to in paragraph 2, plus any year-end profits not included in Common Equity Tier 1 capital pursuant to other legislation<sup>30zh</sup> net of any distribution of profits or any payment resulting from the actions referred to in paragraph 2, minus amounts which would be payable as tax if the interim profits and year-end profits were to be retained.

(6) The factor shall be determined as follows:

- (a) where the Tier 1 capital maintained by the bank which is not used to meet the own funds requirement set out in other legislation<sup>30bd</sup> and the corrective measure under Section 50(1)(m) imposing a specific own funds requirement under Section 29b, if the risk of excessive leverage is not sufficiently covered under other legislation,<sup>30bd</sup> expressed as a percentage of the total risk exposure amount calculated in accordance with other legislation,<sup>30zkd</sup> is within the first quartile of the leverage ratio buffer requirement, the factor shall be 0;
- (b) where the Tier 1 capital maintained by the bank which is not used to meet the own funds requirement set out in other legislation<sup>30bd</sup> and the corrective measure under Section 50(1)(m) imposing a specific own funds requirement under Section 29b, if the risk of excessive leverage is not sufficiently covered under other legislation,<sup>30bd</sup> expressed as a percentage of the total risk exposure amount calculated in accordance with other legislation,<sup>30zkd</sup> is within the second quartile of the leverage ratio buffer requirement, the factor shall be 0.2;
- (c) where the Tier 1 capital maintained by the bank which is not used to meet the own funds requirement set out in other legislation<sup>30bd</sup> and the corrective measure under Section 50(1)(m) imposing a specific own funds requirement under Section 29b, if the risk of excessive leverage is not sufficiently covered under other legislation,<sup>30bd</sup> expressed as a percentage of the total risk exposure amount calculated in accordance with other legislation,<sup>30zkd</sup> is within the third quartile of the leverage ratio buffer requirement, the factor shall be 0.4;
- (d) where the Tier 1 capital maintained by the bank which is not used to meet the own funds requirement set out in other legislation<sup>30bd</sup> and the corrective measure under Section 50(1)(m) imposing a specific own funds requirement under Section 29b, if the risk of excessive leverage is not sufficiently covered under other legislation,<sup>30bd</sup> expressed as a percentage of the total risk exposure amount calculated in accordance with other legislation,<sup>30zkd</sup> is within the fourth quartile, or exceeds the upper bound of the fourth quartile, of the leverage ratio buffer requirement, the factor shall be 0.6.

(7) The lower bound of the quartile of the leverage ratio buffer requirement shall be calculated as follows:

Leverage ratio buffer requirement

$$\text{Lower bound of quartile} = \frac{\text{Leverage ratio buffer requirement}}{4} \times (\text{Qn} - 1)$$

where “Qn” indicates the ordinal number of the quartile concerned.

(8) The upper bound of the quartile of the leverage ratio buffer requirement shall be calculated as follows:

Leverage ratio buffer requirement

$$\text{Upper bound of quartile} = \text{Leverage ratio buffer requirement} \times \text{Qn}$$

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where “Q<sub>n</sub>” indicates the ordinal number of the quartile concerned.

(9) For the purposes of paragraphs 1 and 2, the provisions set out in Section 33k(9) shall be applied to the distribution of Tier 1 capital.

(10) Where a bank fails to meet the leverage ratio buffer requirement and intends to distribute any of its distributable profits or undertake an action under paragraph 2, it shall notify Národná banka Slovenska. The notification shall include information under Section 33k(10) with the exception of the information referred to in point 3 of Section 33k(10)(a) and the MDA related to the leverage ratio calculated in accordance with paragraph 4.

(11) Banks must maintain arrangements to ensure that the amount of distributable profits and the maximum distributable amount related to the leverage ratio are calculated accurately and must be able to demonstrate the accuracy of calculations to Národná banka Slovenska on request.

(12) The restrictions imposed under paragraphs 1 to 11 of this Section shall only apply to payments that result in a reduction of Tier 1 capital or in a reduction of profits, and where a suspension of payments or failure to pay does not constitute an event of default or a condition for the commencement of proceedings under the insolvency regime.

(13) A bank shall be considered as failing to meet the leverage ratio buffer requirement for the purposes of paragraphs 1 to 12 where it does not maintain Tier 1 capital in an amount needed to meet at the same time the leverage ratio buffer requirement, the requirement in other legislation<sup>30bd</sup> and the corrective measures under Section 50(1)(m) imposing a specific own funds requirement under Section 29b, if the risk of excessive leverage is not sufficiently covered by the requirement set out in other legislation.<sup>30bd</sup>

### Section 33l

(1) Where a bank fails to meet its combined buffer requirement or its leverage ratio buffer requirement, it shall prepare a capital conservation plan and submit it to Národná banka Slovenska no later than five working days after it identified that it was failing to meet that requirement. Národná banka Slovenska is authorised to extend the delay by up to five working days.

(2) The capital conservation plan shall include the following:

- (a) estimates of income and expenditure and a balance sheet forecast;
- (b) measures to increase the capital ratios of the bank;
- (c) a plan and timeframe for the increase of own funds with the objective of meeting fully the combined buffer requirement;
- (d) any other information that Národná banka Slovenska considers to be necessary to carry out an assessment as required under paragraph 3.

(3) Národná banka Slovenska shall assess the capital conservation plan and shall approve the plan only if it considers that the plan, if implemented, would be reasonably likely to conserve or raise sufficient capital to enable the bank to meet the combined buffer requirement within a period which Národná banka Slovenska considers appropriate.

(4) If Národná banka Slovenska does not approve the capital conservation plan in accordance with paragraph 3, it shall impose one or all of the following:

- (a) require the bank to increase its own funds to a specified level within a specified period;
- (b) exercise its powers to impose more stringent restrictions on distributions than those required by Section 33k;
- (c) apply the requirement set out in point (a), as well as the restriction imposed under point (b).

### **Section 33m**

Národná banka Slovenska shall:

- (a) assign a preferential risk weight in the range of 35% to 150% to loans fully secured by residential real property in accordance with other legislation;<sup>30zl</sup>
- (b) assign a preferential risk weight in the range of 50% to 150% to any part of an exposure secured by a security interest established in a commercial real property, not exceeding 50% of the market value of the property or 60% of the loan value of the property in accordance with other legislation;<sup>30zl</sup>
- (c) set more stringent criteria for that part of an exposure that is treated as fully secured by residential real property in accordance with other legislation;<sup>30zm</sup>
- (d) set more stringent criteria for that part of an exposure that is treated as fully secured by commercial real property in accordance with other legislation;<sup>30zn</sup>
- (e) set the minimum value of exposure-weighted average loss given default, using the internal ratings-based approach for loans secured by residential real property or for loans secured by commercial real property under other legislation;<sup>30zo</sup>
- (f) set stricter requirements for own funds, large exposures, publication, the capital conservation buffer as defined in Section 33b, liquidity, risk weights for residential or commercial real property, and exposures within the financial sector in accordance with other legislation;<sup>30zp</sup>
- (g) recognise the measures of another Member State under other legislation;<sup>30zr</sup>
- (h) set stricter requirements for large exposures, risk weights for residential or commercial real property, and exposures within the financial sector under other legislation.<sup>30zs</sup>

### **Section 33n**

Decisions taken by Národná banka Slovenska under Sections 33d to 33j and 33m are not subject to the provisions on proceedings before Národná banka Slovenska of this Act or another act,<sup>89</sup> nor to the Code of Administrative Procedure.<sup>30zt</sup> A decision of Národná banka Slovenska shall become effective and enforceable on the date of its promulgation in the Official Journal of Národná banka Slovenska.<sup>30zu</sup> Such decision may not be appealed, nor reviewed by any administrative court.<sup>30zv</sup>

### **Section 33o**

(1) Banks not subject to supervision on a consolidated basis and banks constituting a significant share of the financial system shall draw up, update on a regular basis, and adhere to a recovery plan as part of their governance system. A bank is considered to constitute a significant share of the financial system if:

- (a) the total value of its assets exceeds EUR 30,000,000,000; or
- (b) the ratio of its total assets over the GDP of the Slovak Republic exceeds 20%, unless the total value of its assets is below EUR 5,000,000,000.

(2) A recovery plan shall include the following information:

- (a) a summary of the key elements of the plan and a summary of overall recovery capacity; for the purposes of this Act, 'recovery capacity' means the capacity of a bank to restore its financial position following a significant deterioration;

- (b) a summary of the material changes to the bank that have occurred since the most recent recovery plan was submitted to Národná banka Slovenska;
- (c) a communication and disclosure plan outlining how the bank intends to manage any potentially negative market reactions;
- (d) a range of capital and liquidity actions required to maintain or restore the viability and financial position of the bank;
- (e) an estimation of the timeframe for executing each material aspect of the plan;
- (f) a detailed description of any material impediment to the effective and timely execution of the plan, including consideration of impact on the rest of the group, clients and counterparties;
- (g) identification of the bank's critical functions;
- (h) a detailed description of the processes for determining the value and marketability of the core business lines, operations and assets of the bank;
- (i) a detailed description of how recovery planning is integrated into the corporate governance structure of the bank as well as the policies and procedures governing the approval of the recovery plan and identification of the persons in the bank responsible for preparing and implementing the plan;
- (j) arrangements and measures to conserve or restore the bank's own funds;
- (k) arrangements and measures to ensure that the bank has adequate access to contingency funding sources to ensure that it can carry out its operations, and meet its obligations as they fall due, in particular an assessment of:
  - 1. potential liquidity sources;
  - 2. available collateral;
  - 3. the possibility to transfer liquidity across group entities and business lines;
- (l) arrangements and measures to reduce risk and leverage;
- (m) arrangements and measures to restructure liabilities;
- (n) arrangements and measures to restructure business lines;
- (o) arrangements and measures necessary to maintain continuous access to financial market infrastructures;
- (p) arrangement and measures necessary to maintain the continuous functioning of the bank's operational processes, including infrastructure and IT services;
- (q) preparatory arrangements to facilitate the sale of assets or business lines in a timeframe appropriate for the restoration of the bank's financial soundness;
- (r) other management actions or strategies to restore the bank's financial soundness and the anticipated financial effect of those actions or strategies;
- (s) preparatory measures that the bank has taken or plans to take in order to facilitate the implementation of the recovery plan, including those necessary to enable the timely recapitalisation of the bank;
- (t) a framework of indicators which identifies the points at which appropriate actions as referred to in the plan may be taken by the bank; the indicators may be of a qualitative or quantitative nature relating to the bank's financial position and shall be capable of being monitored easily by the bank;
- (u) the measures available to the bank if the conditions under Section 65a are met;
- (v) an analysis of how and when the bank may apply, in the conditions addressed by the plan, for the use of liquidity-providing central bank facilities, and identification of those assets which would be expected to qualify as collateral.

(3) Banks shall monitor the indicators referred to in paragraph 2(t) on a regular basis. The statutory body of a bank may, where it considers it appropriate, decide to:

- (a) take action under the recovery plan even if the relevant indicator has not been met;
- (b) refrain from taking an action under the recovery plan even if the relevant indicator has been met.



(4) Decisions taken under paragraph 3 and their reasoning shall be notified by the bank to Národná banka Slovenska without undue delay.

(5) Recovery plans shall not assume any access to or receipt of extraordinary public financial support.

(6) Recovery plans shall include appropriate procedures to ensure the timely implementation of recovery actions and shall specify the recovery options available to the bank. Recovery plans shall contemplate an as wide as possible range of scenarios of macroeconomic and financial stress to which the bank may be exposed to in view of the nature of banking activities carried out, including system-wide events and stress specific to individual legal persons and to groups of legal persons.

(7) Recovery plans are subject to approval by the bank's statutory body, and, after being approved, are to be submitted by the bank to Národná banka Slovenska for review.

(8) Banks shall update their recovery plans at least annually or after a change to the bank's organisational structure, its business or its financial situation, which could have a material effect on the recovery plan; in updating their recovery plans, banks shall proceed in accordance with paragraph 7. Národná banka Slovenska may require banks to update their recovery plans more frequently than once a year.

### **Section 33p**

(1) Banks shall submit their recovery plans to Národná banka Slovenska for review within five working days after the plan was approved in accordance with Section 33o(7). Národná banka Slovenska shall assess whether:

- (a) the plan contains all the elements mentioned in Section 33o(2) and (6);
- (b) the implementation of the arrangements proposed in the plan is reasonably likely to maintain or restore the viability and financial position of the bank or of the group, taking into account the preparatory measures that the bank has taken or is planning to take to facilitate implementation of its plan;
- (c) the plan is reasonably likely to be implemented quickly and effectively in situations of financial stress and avoiding to the maximum extent possible any significant adverse effect on the financial system, including in scenarios which would lead other banks and investment firms to implement recovery plans within the same period.

(2) When reviewing recovery plans, Národná banka Slovenska shall take into consideration the appropriateness of the bank's capital and funding structure to the level of complexity of the bank's organisational structure and risk profile.

(3) Národná banka Slovenska shall deliver its opinion on the recovery plan within six months of the plan's submission under paragraph 1. If the bank concerned has a significant branch established in another Member State and the recovery plan includes arrangements related to that branch, Národná banka Slovenska shall deliver its opinion on the plan after consulting the competent supervisory authority of that Member State.

(4) Within five working days of a recovery plan's submission under paragraph 1, Národná banka Slovenska shall provide the recovery plan to the Resolution Council for review. If the Resolution Council identifies any actions in the recovery plan which may adversely impact the resolvability of the bank, it shall notify Národná banka Slovenska of this fact. Such notification of the Resolution Council is recommendatory in character.

(5) If Národná banka Slovenska finds that a bank's recovery plan does not meet the requirements laid down in paragraph 1, it shall notify the bank of this fact and shall request the bank to give its opinion on the plan's deficiencies within a time limit set by Národná banka Slovenska; after receiving the bank's opinion, Národná banka Slovenska shall require the bank to remove the deficiencies within two months. Národná banka Slovenska may, at the bank's request, extend the time limit mentioned in the previous sentence by up to one month.

(6) If a bank fails to remove the deficiencies mentioned in paragraph 5, Národná banka Slovenska may require the bank to make specific changes to the recovery plan.

(7) If the bank fails to submit the recovery plan to Národná banka Slovenska within the timeframe under paragraph 5, or, after receiving the notification under paragraph 6, submits a recovery plan that still does not meet the requirements laid down in paragraph 1, Národná banka Slovenska shall require the bank to propose within a specified timeframe changes the bank can make to its business in order to address the deficiencies in the recovery plan.

(8) If the bank fails within the specified timeframe to propose changes referred to in paragraph 7, or if Národná banka Slovenska assesses that the actions proposed by the bank would not adequately address the deficiencies in the recovery plan, Národná banka Slovenska may impose measures under Section 50 and direct the bank to:

- (a) reduce its risk profile, including liquidity risk;
- (b) enable timely recapitalisation measures;
- (c) modify its strategy and structure;
- (d) modify its funding strategy so as to improve the resilience of its core business lines and critical functions; for the purposes of this Act, 'core business lines' means business lines which represent material sources of revenue, profit or intellectual property value for the bank or its group; 'critical functions' means activities, services or operations performed or provided by the bank the discontinuance of which is likely to lead to the disruption of the functioning of the real economy or its financial stability due to the size, market share, external and internal interconnectedness, complexity or range of cross-border activities of the bank or its group, with particular regard to the substitutability of those activities, services or operations;
- (e) modify its governance structure.

(9) The imposition of measures and obligations under paragraph 8 is subject to the provisions of other legislation.<sup>89</sup>

### **Section 33q**

(1) Banks that are group-level parent undertakings<sup>30zy</sup> shall draw up and submit to Národná banka Slovenska a recovery plan for the group (hereinafter 'group recovery plan'). Such group recovery plan is to be approved by the bank's statutory body. The group recovery plan shall be submitted to Národná banka Slovenska for comments within the time limit specified in Section 33p(1).

(2) Národná banka Slovenska shall submit a group recovery plan to:

- (a) other Member State's competent supervisory authority responsible for supervision of a banking subsidiary which is a foreign bank, as well as to the College;
- (b) the competent supervisory authority of each Member State in which a significant foreign bank branch is located if the group recovery plan contains measures relating to that branch;
- (c) the Resolution Council;

(d) the resolution authorities responsible for the resolution of banking subsidiaries pursuant to other legislation.<sup>30zz</sup>

(3) A group recovery plan is designed to set out the measures to be taken by a bank that is a parent undertaking and by the group members. The purpose of a group recovery plan is to stabilise the group as a whole or the bank's subsidiaries in a stress situation, to resolve or eliminate the causes of the stress situation, and to restore the financial position of the group as a whole or of its members, with regard to the financial positions of the other members of the group.

(4) A group recovery plan shall contain the elements specified in Section 33o(2) and (6) in relation to the group and the individual subsidiaries, as well as a group financial support agreement if such agreement has been concluded.

(5) A group recovery plan shall specify for each scenario of severe macroeconomic and financial stress whether there are any impediments to the implementation of measures within the group as well as at the level of individual group entities to which the recovery plan applies, and whether there are material practical or legal impediments to the prompt transfer of own funds or repayment of liabilities or claims within the group.

### Section 33r

(1) Národná banka Slovenska as a consolidating supervisor shall, jointly with the competent supervisory authorities of non-resident banking subsidiaries and after consulting the supervisory authorities of significant branches, make every effort to reach a joint decision within four months of the submission of a group recovery plan pursuant to Section 33q(2) in respect of:

- (a) the approval of the group recovery plan submitted;
- (b) the requirement that an individual recovery plan be drawn up by a subsidiary;
- (c) the procedure to be followed in accordance with Section 33p(5);
- (d) the procedure to be followed in accordance with Section 33p(6);
- (e) the procedure to be followed in accordance with Section 33p(7);
- (f) the imposition of a measure in accordance with Section 33p(8).

(2) The assessment of a group recovery plan is equally subject to the provisions of Section 33p. Národná banka Slovenska shall, working closely with the competent supervisory authorities of non-resident banking subsidiaries, assess the impact of the recovery measures proposed in the recovery plan on financial stability in the Member States where the parent undertaking and its subsidiaries are established.

(3) If, within the period specified in paragraph 1, any of the supervisory authorities mentioned in paragraph 1 requests assistance from the European supervisory authority (European Banking Authority) to reach an agreement in any of the matters referred to in paragraph 1(a) and in Section 33p(8)(a), (b) and (d) pursuant to other legislation,<sup>30zza</sup> Národná banka Slovenska shall await the relevant decision of the European supervisory authority (European Banking Authority) by which Národná banka Slovenska is bound. If the European supervisory authority (European Banking Authority) fails to issue such decision within one month of receipt of the request for assistance or if none of the supervisory authorities mentioned in paragraph 1 has requested assistance from the European supervisory authority (European Banking Authority) to reach an agreement and Národná banka Slovenska fails to reach a joint decision with the supervisory authorities mentioned in paragraph 1, Národná banka Slovenska shall issue a decision on its own, taking into account the opinions of the supervisory authorities referred to in paragraph 1. Národná banka Slovenska shall

deliver its decision to the supervisory authorities mentioned in paragraph 1, as well as to the bank concerned.

(4) If, within the period specified in paragraph 1, Národná banka Slovenska fails to reach a joint decision with the supervisory authorities mentioned in paragraph 1 in any of the matters referred to in paragraph 1(b) to (f) in relation to a bank as a parent undertaking and its subsidiaries, Národná banka Slovenska shall take a decision in these matters only in respect of the parent undertaking. Before the expiry of the period defined in paragraph 1, Národná banka Slovenska may request assistance from the European supervisory authority (European Banking Authority) to reach an agreement in any of the matters referred to in paragraph 1(a) and in Section 33p(8), (a), (b) and (d) pursuant to other legislation.<sup>19</sup> If Národná banka Slovenska proceeds according to the second sentence, it shall await the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue such decision within one month of receipt of the request for assistance, Národná banka Slovenska shall take a decision on its own.

(5) Where Národná banka Slovenska exercises supervision over a banking subsidiary that is part of a group, it is equally subject to the provisions of paragraphs 1 and 2. In examining the group's recovery plan, Národná banka Slovenska shall assess compliance with the relevant requirements in accordance with Section 33o(2) and (6) in the range specified in the group recovery plan, taking into account the effects the recovery measures proposed in the group recovery plan may have on financial stability.

(6) Národná banka Slovenska may request assistance from the European supervisory authority (European Banking Authority) in any of the matters referred to in Section 33p(8)(a), (b) and (d) under other legislation<sup>19</sup> and, if the European supervisory authority (European Banking Authority) issues a decision under other legislation,<sup>19</sup> Národná banka Slovenska will be bound by that decision. If a joint decision is not reached within the time limit specified in paragraph 1, Národná banka Slovenska may take its own decision in respect of a bank over which it exercises supervision, in accordance with paragraph 1(b), (e) and (f).

(7) Joint decisions made between Národná banka Slovenska and the supervisory authorities referred to in paragraph 1 are binding for banks that are subject to supervision on a consolidated basis.

### **Section 33s** **Principle of proportionality**

(1) Národná banka Slovenska may, on its own initiative, reduce proportionally the range of requirements laid down in Sections 33o and 33q and to set a different time limit for the preparation of a recovery plan and a different interval for its updating, while taking into account the potential impact of failure by the bank on the financial system, other financial and non-financial institutions, the terms and conditions of their financing, and on the economy as a whole. In so doing, Národná banka Slovenska shall take into account the nature and complexity of the bank's activities, its shareholding structure, risk profile, size and legal position, interconnectedness with other participants of the financial system, and membership of an institutional protection system or other similar system under other legislation,<sup>26g</sup> as well as the investment services provided by that bank. In the case of any change in the circumstances, Národná banka Slovenska may request the bank to draw up a recovery plan in the range specified in Sections 33o and 33q and to regularly update it in accordance with Section 33o(8).

(2) Národná banka Slovenska shall inform the European supervisory authority (European Banking Authority) as to whether it applied the procedure set out in paragraph 1 and about the details of that procedure.

### **Section 33t** **Intragroup financial support agreement**

(1) A parent bank, an EU parent bank, a financial holding company, a mixed financial holding company, a mixed-activity holding company established in the Slovak Republic, a parent financial holding company, an EU parent financial holding company, a parent mixed financial holding company, an EU parent mixed financial holding company and their subsidiaries that are banks or financial institutions subject to consolidated supervision under this Act (hereinafter ‘sub-group’) may conclude an agreement to provide financial support to one or more members of the sub-group where, under the terms set out in paragraphs 2 to 7 and in Sections 33u to 33z, there are satisfied the conditions for the imposition of an early intervention measure as defined in Section 65(1) or of a comparable measure under the law of the Member State in which the party concerned is established (hereinafter ‘group financial support agreement’). Such financial support may be provided in the form of a loan, guarantee or assets used as collateral (hereinafter ‘group financial support’). The recipient of group financial support shall be entitled to use such support even in transactions with persons that are not parties to the group financial support agreement.

(2) The provisions of paragraphs 3 to 7 and Sections 33o to 33z do not apply to the financing arrangements made between the members of a sub-group if none of the parties to these financing arrangements meets the conditions for the imposition of an early intervention measure as defined in Section 65a(1) or of a comparable measure under the law of the Member State in which the sub-group member concerned is established.

(3) Without prejudice to the other conditions set out in paragraphs 2, 4 to 7 and in Sections 33s to 33y, group financial support may also be provided without a group financial support agreement signed in advance where such action is in accordance with the internal rules of the group concerned and if the member of the sub-group intending to provide such support assesses that the provision of group financial support is necessary and represents no risk for the group. The sub-group member shall, without delay, inform Národná banka Slovenska of the provision of group financial support if the relevant group is subject to supervision under this Act or to consolidated supervision.

(4) A group financial support agreement may contain a clause under which a sub-group member receiving group financial support undertakes to provide such support to the sub-group member providing the support in question.

(5) A group financial support agreement may only be concluded if:

- (a) each party is acting freely in entering into such agreement;
- (b) the agreement sets out principles for determining the consideration to be paid for the provision of group financial support;
- (c) the value of consideration is determined no earlier than at the time when a decision to provide group financial support is adopted;
- (d) in entering into such agreement and in determining the consideration for the provision of group financial support, each party is acting in their own best interests which may take account of any direct or indirect benefit that may accrue to a party as a result of the provision of group financial support;

- (e) each party providing group financial support must have full disclosure of relevant information from any party receiving such support prior to determination of the consideration for the provision of group financial support and prior to any decision to provide group financial support;
- (f) the conditions for the provision of group financial support are stipulated in accordance with the requirements of Section 33w;
- (g) the consideration to be paid for the provision of group financial support may take account of information in the possession of the party providing such support based on it being in the same group as the party receiving group financial support and which is not available to the public;
- (h) the principles for the calculation of the consideration to be paid for the provision of group financial support must not take account of any anticipated temporary impact on market prices arising from events external to the group.

(6) A group financial support agreement may only be concluded if, at the time the proposed agreement is made, in the opinion of their respective supervisory authorities, none of the parties meets the conditions for the imposition of a measure in accordance with Section 65a(1) or a comparable measure under the law of the Member State in which the party concerned is established.

(7) Rights arising from a group financial support agreement are to be exercised by the contracting parties on their own, without taking account of the contractual rights of third persons.

(8) Under a group financial support agreement, group financial support may be provided to one or more subsidiaries belonging to the same group. Group financial support may also be provided by a parent undertaking to its subsidiary or by a subsidiary to its parent undertaking under a group financial support agreement.

### **Section 33u**

(1) If the members of a group agree to conclude a group financial support agreement, the parent undertaking<sup>30zzaa</sup> shall submit an application to Národná banka Slovenska, which exercises supervision over that bank on a consolidated basis, for the approval of the draft group financial support agreement. Apart from the elements prescribed in other legislation,<sup>89</sup> such application must contain a description of, and justification for, each of the conditions stipulated for conclusion of a group financial support agreement and the relevant documents confirming that the conditions have been met. The draft financial support agreement, including the names of the group members who will be parties to the agreement, is to be attached to the application, too.

(2) If Národná banka Slovenska as a consolidating supervisor receives an application as referred to in paragraph 1, it shall send an original copy of that application to the supervisory authorities of the persons that will be parties to a group financial support agreement.

(3) Národná banka Slovenska shall, in its capacity as a consolidating supervisor, make every effort to reach a joint decision with the supervisory authorities referred to in paragraph 2 as to whether a group financial support agreement satisfies the conditions set out in Sections 33t and 33w, taking into account the possible consequences of that decision, including the fiscal consequences of group financial support provided in the Member States in which the relevant group operates. Národná banka Slovenska shall decide in respect of an application as referred to paragraph 1 within four months of receipt of that application. If the proposed group financial support agreement complies with the conditions laid down in Sections 33t and 33w, Národná banka Slovenska shall approve the group financial support agreement proposed; otherwise, the application is to be rejected. If a joint decision cannot be reached within the time limit specified in the second sentence, Národná banka Slovenska shall decide in respect of the application on its own, taking into account the opinions and comments

of the supervisory authorities mentioned in paragraph 2. In that case, Národná banka Slovenska shall deliver a copy of its decision to the supervisory authorities referred to in paragraph 2, as well as to the parent bank.

(4) Prior to the expiry of the time limit specified in paragraph 3 for reaching a joint decision under paragraph 3, Národná banka Slovenska may, in its capacity as a supervisory authority in charge of supervision on the consolidated basis, request assistance from the European supervisory authority (European Banking Authority) under other legislation.

(5) If, before a joint decision is reached pursuant to paragraph 3, Národná banka Slovenska as a consolidating supervisor or any of the supervisory authorities referred to in paragraph 3 requests assistance from the European supervisory authority (European Banking Authority) to reach an agreement in accordance with other legislation, Národná banka Slovenska shall await the decision of the European supervisory authority (European Banking Authority) by which Národná banka Slovenska is bound.

(6) The obligation to make every effort to reach a joint decision under paragraph 3 applies *mutatis mutandis* where Národná banka Slovenska has received, from another Member State's consolidating supervisor, an original copy of an application for approval of a group financial support agreement. Národná banka Slovenska may request assistance from the European supervisory authority (European Banking Authority) to reach an agreement under other legislation.

(7) A joint decision reached between Národná banka Slovenska and the supervisory authorities referred to in paragraph 3 is binding for the parties to a group financial support agreement.

(8) Národná banka Slovenska shall submit to the Council a copy of each group financial support agreement it has approved, as well as a copy of any amendment thereto.

### **Section 33v**

#### **Approval of group financial support agreement by shareholders**

(1) After a draft group financial support agreement is approved pursuant to Section 33u, the parties to the agreement shall submit the draft to the general meeting of shareholders for approval. The group financial support agreement shall enter into force only if approved by the general meeting, which shall authorise the statutory body to decide to accept or provide group financial support in accordance with the terms of the agreement and the provisions of Sections 33t to 33z. If the authorisation granted to the statutory body to accept or provide group financial support is withdrawn, the agreement shall become invalid.

(2) The statutory body of each person that is a party to a group financial support agreement shall submit, to the general meeting of shareholders on an annual basis, a report on fulfilment of the group financial support agreement and on the adoption of any decision taken on the basis of that agreement.

### **Section 33w**

#### **Conditions for the provision of group financial support**

A member of a sub-group may provide group financial support only if all of the following conditions are met:

(a) there is a reason to believe that the provision of group financial support will materially improve the financial position of the recipient of such support;

- (b) group financial support is provided to preserve or restore the financial stability of the group concerned as a whole or of any member of that group in the interest of the sub-group member providing such support;
- (c) group financial support is provided for consideration in accordance with the conditions laid down in Section 33t(5);
- (d) according to the information that is available to the statutory body of the sub-group member providing group financial support, there is a reason to believe that, at the time the decision to provide such support is taken, the sub-group member accepting that support pays consideration for the support provided and, if group financial support is to be provided in the form of:
  - 1. a loan, that loan is repaid in due time;
  - 2. a guarantee, the provider of group financial support receives payment in an amount corresponding to that provided from the guarantee and from the interest agreed, within the agreed period after enforcing the rights arising from the guarantee;
  - 3. other security, the provider of group financial support receives payment in an amount corresponding to that of the loss sustained as a result of security realisation and of the interest agreed, within the agreed period after security realisation;
- (e) the provision of group financial support does not represent a threat to the liquidity or solvency of the sub-group member providing such support;
- (f) the provision of group financial support does not represent a threat to the financial stability of the Member State in which the sub-group member providing that support is established;
- (g) at the time when group financial support is provided, the sub-group member providing that support meets the requirements of this Act concerning capital and liquidity and the provision of such support is unlikely to breach these requirements, except when Národná banka Slovenska as the supervisory authority of the sub-group member concerned grants approval for non-compliance with these requirements;
- (h) at the time when group financial support is provided, the sub-group member providing that support meets the requirements of this Act concerning large exposures and the provision of such support is unlikely to breach these requirements, except when Národná banka Slovenska as the supervisory authority of the sub-group member concerned grants approval for non-compliance with these requirements;
- (i) the provision of group financial support is unlikely to endanger the resolvability of the sub-group member that intends to provide such support.

### **Section 33x**

#### **Decision to provide group financial support**

(1) Group financial support may be provided on the basis of a decision taken by the statutory body of the sub-group member that intends to provide such support. Such decision must be issued in writing and must contain a justification, including a description of how compliance with the requirements of this Act is ensured, especially with the conditions laid down in Sections 33t and 33w, and the purpose for which such support is provided.

(2) Group financial support may be accepted on the basis of a decision taken by the statutory body of the sub-group member that intends to accept such support.

(3) A sub-group member as referred to in paragraph 1 shall deliver any decision taken in accordance with paragraph 1 to:

- (a) Národná banka Slovenska;
- (b) the supervisory authority of the Member State responsible for the supervision on an individual basis of the sub-group member to which group financial support is provided;



- (c) the consolidating supervisor of the group concerned, if different from those mentioned in points (a) and (b);
- (d) the European supervisory authority (European Banking Authority).

(4) As a consolidating supervisor of a group within which financial support is to be provided, Národná banka Slovenska shall, without delay, notify the other members of the College, the Resolution Council, and the members of the Resolution College<sup>30zzb</sup> of any decision taken pursuant to paragraph 1.

(5) Before providing or accepting group financial support, the sub-group member concerned shall verify whether the conditions set out in paragraph 1 or 2 have been met. If the counterparty is based in another Member State, the sub-group member shall verify whether the conditions stipulated by the law of that Member State have been met.

### **Section 33y** **Prior approval for the provision of group financial support**

(1) The statutory body of a sub-group member intending to provide group financial support shall, before providing such support, notify the following authorities of this intention:

- (a) Národná banka Slovenska;
- (b) the supervisory authority of the recipient of such support;
- (c) the consolidating supervisor of the group concerned, if different from those referred to in points (a) and (b);
- (d) the European supervisory authority (European Banking Authority).

(2) A notification as referred to in paragraph 1 shall contain the statutory body's decision pursuant to Section 33x, including a justification and a description of all the relevant aspects of the proposed group financial support that are not included in the statutory body's decision, as well as a copy of the group financial support agreement with a certificate of validity in relation to the parties to the agreement, if such agreement has been concluded.

(3) If Národná banka Slovenska receives a notification as referred to in paragraph 2 from a bank over which it exercises supervision, that notification shall be treated as an application for prior approval for group financial support; the due form of such application is stipulated in other legislation.<sup>30zzc</sup> Národná banka Slovenska shall grant prior approval for the provision of group financial support only if the relevant conditions stipulated by this Act are met. Otherwise the provision of group financial support is to be prohibited or restricted. Národná banka Slovenska shall issue a decision within five working days of receipt of the complete application.

(4) Národná banka Slovenska shall inform the supervisory authorities referred to in paragraph 1(b) to (c) of its decision taken in accordance with paragraph 3.

(5) Národná banka Slovenska as a consolidating supervisor shall, without undue delay, inform the other members of the College, the Resolution Council, and the members of the Resolution College<sup>30zzb</sup> of the granting of prior approval and of any decision it has issued or has been notified of by another supervisory authority allowing, prohibiting or restricting the provision of group financial support.

(6) If Národná banka Slovenska as the supervisory authority of a bank that is to receive group financial support or as the consolidating supervisor disagrees with a decision taken by another Member State's supervisory authority to restrict or prohibit the provision of group financial support

to the bank concerned, Národná banka Slovenska may, within two days of the date when the issuance of such decision comes to its knowledge, request assistance from the European supervisory authority (European Banking Authority) under other legislation.

(7) If Národná banka Slovenska grants prior approval pursuant to paragraph 3 or fails to issue a decision within the period specified in paragraph 3, group financial support may be provided in accordance with the terms and conditions set out in the relevant application and in its annexes pursuant to paragraphs 2 and 3.

(8) If Národná banka Slovenska as a consolidating supervisor of a group whose recovery plan contains the option of using group financial support and the supervisory authority of a member of that group have decided to prohibit or restrict the provision of such support between the group members, Národná banka Slovenska may:

- (a) revise the group recovery plan using the procedure described in Section 33r;
- (b) request a group member which is subject to supervision on an individual basis by Národná banka Slovenska and which has been prohibited from accepting group financial support or the provision of such support has been restricted, to update its recovery plan; and
- (c) shall revise the group recovery plan using the procedure described in Section 33r, if requested by the supervisory authority of the group member that has been prohibited from accepting group financial support or the provision of such support has been restricted.

(9) If the consolidating supervisor of a group whose group recovery plan contains the option of using group financial support and any of the supervisory authorities of the members of that group have decided to prohibit or restrict the provision of such support to a group member subject to supervision by Národná banka Slovenska on an individual basis, Národná banka Slovenska may:

- (a) request the consolidating supervisor of the group concerned to revise the group recovery plan; or
- (b) request the group member concerned which has been prohibited from accepting group financial support or the provision of such support has been restricted, to update its recovery plan.

### **Section 33z** **Information disclosure requirement**

Sub-group members shall disclose information on their websites as to whether they have concluded a group financial support agreement and a description of the general terms and conditions, including the names of all parties to the agreement. The information disclosed shall be updated at least once a year.

### **Section 34**

(1) Unless such information is generally available to the public, banks and foreign bank branches may not conduct investment transactions:

- (a) using information acquired in connection with their lending transactions and vice versa;
- (b) for their own account, using information acquired in connection with their investment transactions for client accounts and vice versa.

(2) For the purposes of paragraph 1, banks and foreign bank branches shall in particular make arrangements in their organisational, management, and control systems to ensure the separation of lending transactions from investment transactions.

(3) 'Lending transactions' as referred to in paragraph 1 means activities related to the provision of loans and guarantees.

(4) 'Investment transactions' as referred to in paragraph 1 means activities related to:

- (a) investment in securities;
- (b) trade in securities;
- (c) trade in rights associated with securities or derived from securities;
- (d) participation in the issuance of securities and the provision of related services; and
- (e) the management of securities, including advisory services.

(5) Banks and foreign bank branches may conduct investment transactions for the account of clients only under conditions advantageous for the clients, in particular at a price advantageous for the clients, while exercising due professional care, unless otherwise requested by the clients; the provisions of Section 27(14) are not prejudiced by the foregoing.

(6) Banks and foreign bank branches shall keep separate records of investment transactions carried out for the account of clients and for their own account.

### Section 35

(1) Banks and foreign bank branches may not conduct transactions with persons who have a special relationship with them, which they would normally, given the nature, purpose or riskiness thereof, not carry out with other clients. Before entering into and completing such transactions, banks and foreign bank branches shall verify whether the persons they conduct such transactions with do not have a special relationship with them; such persons shall provide the bank or foreign bank branch with true information that the bank or foreign bank branch need for the purposes of such verification. Banks and foreign bank branches shall arrange that the veracity of the data provided is ensured in writing through a contract for a guarantee granted by them or a deposit agreement under Section 5(a) subject to the sanction of invalidity, or through a loan agreement under Section 5(b) subject to the sanction of immediate maturity of the entire outstanding amount as at the date on which the bank or foreign bank branch learnt of the falsity of the data provided, including interest for the whole agreed-upon loan life falling due.

(2) Banks and foreign bank branches shall provide loans or issue guarantees to persons mentioned in paragraph 1 above, only if unanimously decided so by the bank's statutory body or by the head of a foreign bank branch on the basis of a written assessment of the relevant banking transaction and the applicant's financial situation. The person concerned by the decision shall be excluded from the decision-making process.

(3) Within 30 days from the end of the calendar year, every person mentioned in paragraph 4(a), (b), (c) and (f) and paragraph 5(a), (b), (c) and (f) shall notify the bank or foreign bank branch in writing of all facts needed to identify further persons who, as a result of their relationship with the notifying person, have a special relationship with the bank or foreign bank branch concerned. The bank or foreign bank branch shall process this information into an overview of persons with a special relationship with the bank and, when requested, deliver this overview to Národná banka Slovenska and the Deposit Protection Fund for the purposes specified in other legislation.<sup>32</sup> The elements of such overview shall be stipulated in a decree<sup>23</sup> to be issued by Národná banka Slovenska and promulgated in the Collection of Laws.

(4) For the purposes of this Act, the following persons are deemed to have a special relationship with a bank:

- (a) members of the bank's statutory body, managers, other staff members named in the bank's articles of association, and the bank's authorised representative;

- (b) members of the bank's supervisory board;
- (c) persons exercising control over the bank, statutory body members and managers of such legal entities;
- (d) persons closely related<sup>30</sup> to the bank's statutory body members, supervisory board members, managers, and natural persons exercising control over the bank;
- (e) legal entities in which some of the persons mentioned in points (a), (b), (c) or (d) have a qualifying holding;
- (f) shareholders with a qualifying holding in the bank and any legal person controlled by them or controlling them;
- (g) legal entities controlled by the bank;
- (h) members of the Bank Board of Národná banka Slovenska;
- (i) auditors or natural persons who, on behalf of an audit firm, perform an audit in the bank;
- (j) members of another bank's statutory body, head of a foreign bank branch;
- (k) the bank's covered bond programme administrator and covered bond programme deputy administrator;
- (l) persons who have entered into a legal relationship with the bank, which may lead to the acquisition of a qualifying holding in the bank.

(5) For the purposes of this Act, the following persons are deemed to have a special relationship with a foreign bank branch:

- (a) the head of the foreign bank branch;
- (b) the foreign bank's statutory body or supervisory board members;
- (c) legal entities having control over the foreign bank and the statutory body members of such legal entities;
- (d) persons closely related<sup>30</sup> to the persons named in point (a) or (b) or natural persons having control over the foreign bank;
- (e) legal entities in which some of the persons named in points (a), (b), (c) or (d) have a qualifying holding;
- (f) shareholders with a qualifying holding in the foreign bank and any legal person controlled by them or controlling them;
- (g) legal entities under the control of the foreign bank;
- (h) members of the Bank Board of Národná banka Slovenska;
- (i) auditors or natural person who, on behalf of an audit firm, performs an audit in the foreign bank branch;
- (j) the head of another foreign bank branch and the statutory body members of that bank.

### Section 36

(1) The sum of loans not secured by a security interest in real property, provided by a bank to its employee or another person in a special relationship with the bank under Section 35(4)(a), (b), (c), (d) and (f), may not exceed the total gross income of that person for the previous 24 months. The total amount of loans provided by a bank to its employees under preferential terms may not exceed 20% of the bank's own funds.

(2) Banks may not provide loans or guarantee loan liabilities for:

- (a) the acquisition of shares they have issued;
- (b) the acquisition of shares issued by a person who has a qualifying holding in the bank;
- (c) the acquisition of shares issued by legal entities who control or are controlled by persons having a qualifying holding in the bank;
- (d) the acquisition of shares issued by legal entities controlled by the bank;

(e) the repayment of another loan provided for any acquisition of shares under points (a) to (d) or for guaranteeing liabilities arising from such loans.

(3) Banks and foreign bank branches may not acquire from persons they have a special relationship with a claim that is assumed on justified grounds to not be settled properly and in due time, or to take over a liability from such persons.

(4) Any legal act performed under paragraphs 2 and 3 shall be null and void.

(5) Banks may not provide loans or guarantee liabilities arising from loans granted to employees or persons they have a special relationship with if the banks do not meet their duties specified in Section 30(1), or if the persons in a special relationship with the banks do not meet their duties set out in Section 35(3).

### **Section 36b**

(1) Banks, foreign banks and foreign bank branches provide consumer loans under other legislation<sup>32b</sup> on the basis of a banking authorisation issued in accordance with Sections 7 to 9 or on the basis of an authorisation to conduct banking activities in accordance with Sections 11 to 20.

(2) Banks, foreign banks and foreign bank branches referred to in paragraph 1 are not subject to the provisions concerning authorisation to provide consumer loans under other legislation.<sup>32c</sup>

### **Section 37**

(1) Banks and foreign bank branches shall disclose, both on their websites and on their business premises, clear information in written form in the Slovak language about their commercial terms and conditions for accepting deposits, providing loans, and handling banking transactions, including the prices thereof and examples. Where a bank or a foreign bank branch makes a change in the terms and conditions of banking transactions or in the prices of transactions, it shall give notice of this fact in the manner mentioned in the previous sentence, at least 15 days before the relevant change enters into force, unless other legislation provides otherwise or unless the bank or foreign bank branch has agreed otherwise with the client. The bank shall also inform, in a demonstrable and comprehensible manner, its clients without delay of its intention to discontinue a service or part thereof in accordance with Section 28(1)(b), (c) or (d); the bank shall disclose this information without delay on its website and business premises and shall ensure that it is kept disclosed until the relevant service or part thereof is ended. The information disclosure requirement under this Act shall not affect the provisions of Section 265 and Section 273(1) of the Commercial Code and other legislation.<sup>33</sup>

(2) When concluding any written contract for a transaction, other than a contract for a transaction related to the provision of services linked to a payment account,<sup>33a</sup> a bank or a foreign bank branch shall inform the client of the annual percentage interest rate charged for the transaction where such interest rate is agreed upon, and of the payments the bank or foreign bank branch demands from the client or which are to be made in favour of the client, insofar as they relate to the transaction contract in question; this obligation does not apply to payments associated with the non-fulfilment of obligations arising from that transaction contract. In the case of a transaction related to the provision of services linked to a payment account, the bank or foreign bank branch shall inform the client concerned in accordance with other legislation.<sup>33b</sup>

(3) Banks and foreign bank branches shall provide the Ministry and Národná banka Slovenska with data on the payments they demand from their clients for selected types of transactions, except for data on the fees charged for services linked to payment accounts.<sup>33a</sup> Národná banka Slovenska shall publish these data on its website. Data on the fees charged for services linked to payment accounts shall be provided by banks and foreign bank branches in accordance with other legislation.<sup>33c</sup>

(4) Banks and foreign bank branches shall, on their websites and business premises, publish written information on deposit protection and provide their clients with such information in the range and in the manner stipulated by another act;<sup>32</sup> this also applies to foreign banks performing banking activities in the territory of the Slovak Republic through their local branches or without opening such branches, without being involved in the deposit protection system of the Slovak Republic.

(5) Banks shall deposit their annual reports in the public section of their registry of accounting documents,<sup>34</sup> within 30 days after the report is approved by the general meeting of shareholders. This is without prejudice to the provisions of other legislation.<sup>35</sup>

(6) The annual reports of banks as defined in other legislation<sup>35</sup> shall contain the following information:

- (a) the bank's name, the nature of its activities and its geographical location;
- (b) total revenues;
- (c) the number of employees in full employment as at the date of the financial statements;
- (d) profit or loss before taxation;
- (e) income tax;
- (f) subventions received from public resources;
- (g) return on assets, expressed as the ratio of net profit to total assets.

(7) Foreign banks operating in the territory of the Slovak Republic shall publish their annual report in the Slovak language – including a summary of any differences between the rules used for the preparation of financial statements in the Slovak Republic and in the country where the foreign bank has its registered office – within 60 days after the report is approved. An annual report of a foreign bank operating in the territory of the Slovak Republic shall be published on the bank's website and shall remain published there at least until the publication of the annual report for the next accounting period.

(8) Banks and foreign banks operating in the territory of the Slovak Republic shall provide a copy of their annual report, or of any part thereof, to anyone who so requests; the price for such copy shall not be higher than the cost of its production.

(9) Unless Section 67(3) stipulates otherwise, banks shall disclose information on the following matters:

- (a) themselves and their activities;
- (b) any corrective measures or fines imposed on them;
- (c) their financial indicators;
- (d) the total remuneration paid to their supervisory board members for the performance of their duties, including remuneration for the performance of their duties for the bank paid by an entity other than the bank;
- (e) their selected shareholders in the range specified in Section 93(1)(a) points 1 and 2;
- (f) the percentage of capital and voting rights held by their shareholders;
- (g) the financial indicators of the consolidated group to which they belong and the structure of this consolidated group in terms of its interrelations and composition under Section 44;
- (h) facts about remuneration in the bank, resulting from the remuneration principles applied;

- (i) the structure of the covered bonds including their ISIN<sup>35aaa</sup>, their maturity, the number and volume of issues of covered bonds, their currencies and interest rates;
- (j) the total value of the cover pool, the value, type, ratio, maturity structure and valuation method of assets in the cover pool and important changes therein;
- (k) the volume broken down by the corresponding currency of cash nominal value, the weighted average residual maturity, the weighted average interest rate and the weighted average value of the coverage indicator for primary assets in the cover pool;
- (l) the proportional geographical distribution of primary assets and real properties which are used as collateral for them and which make up the cover pool;
- (m) market risk including interest rate risk, currency risk, credit risk and liquidity risk;
- (n) the possible extension of the maturity period of the covered bonds in accordance with Section 82(3) to (13);
- (o) the levels of required and available coverage, and the levels of statutory, contractual and voluntary overcollateralisation in accordance with Section 69;
- (p) the percentage of loans where a default is considered to have occurred pursuant to other legislation<sup>35aab</sup> and in any case where the loans are more than 90 days past due;
- (q) other documents and information relevant to the covered bond programme.

(10) Foreign bank branches shall disclose information about themselves and their activities, information about any corrective measures or fines imposed on them, and information about their financial indicators.

(11) Banks and foreign bank branches shall not disclose immaterial information, internal information, and confidential information as defined in other legislation.<sup>35aa</sup>

(12) Banks and foreign bank branches shall notify Národná banka Slovenska in writing as to which pieces of information – from the information they are obliged to disclose – they prefer not to disclose as they consider them to be immaterial, proprietary or confidential; they shall do so prior to the deadline when the relevant information is to be disclosed.

(13) If the information disclosed under paragraphs 9 and 10 is incomplete or diverges substantially from reality, the bank or foreign bank branch concerned shall issue a correction without delay.

(14) In a decree<sup>23</sup> to be issued by Národná banka Slovenska and promulgated in the Collection of Laws, the following shall be stipulated:

- (a) the scope and form of information to be provided to clients under paragraph 2;
- (b) the type of transaction, and the extent, method and deadline for information disclosure under paragraph 3;
- (c) the scope of information to be disclosed by a bank or a foreign bank branch under paragraphs 9 and 10;
- (d) the periodicity, method, and deadline for information disclosure under paragraphs 9 and 10;
- (e) the publication of a correction and the definition of a substantial divergence from reality of the information disclosed under paragraph 13;

(15) Any advertisement<sup>35a</sup> or offer of a transaction, where an interest rate or any numerical data related to the transaction is included, must contain comprehensible and clear information on the per annum percentage rate of interest on the transaction.

(16) The provisions of paragraph 15 are without prejudice to the provisions of other legislation.<sup>35b</sup>

(17) Banks, foreign banks, and foreign bank branches may not require consumers,<sup>27f</sup> apartment owners' associations<sup>35ba</sup> or administrators<sup>35bb</sup> entering into a loan agreement on behalf of the owners of residential and non-residential premises in apartment houses<sup>35bc</sup> to make fee payments, cost reimbursements, or other payments for the registration, management or administration of loans or loan accounts, or for the cancellation of loan accounts, constituting a condition for a loan relationship; this does not apply to accounts defined in Sections 708 to 715 of the Commercial Code or in another act,<sup>35c</sup> nor to special services which do not represent a condition for a loan relationship and which are subject to the written consent of the consumer, apartment owners' association<sup>35ba</sup> or administrator<sup>35bb</sup> concerned entering into a loan agreement on behalf of the owners of residential and non-residential premises in their apartment houses.<sup>35bc</sup>

(18) Banks and foreign bank branches shall submit to the Ministry data on their schedule of fees and charges for natural persons not engaged in business. Such data shall be submitted by banks and foreign bank branches in the calendar year following the calendar year in which their household deposits as at 31 December accounted for at least 2% of the total outstanding amount of household deposits recorded under this Act and other legislation.<sup>35d</sup> The range of data on the schedule of fees of charges for natural persons not engaged in business and their structure, manner, date and place of submission shall be specified in legislation of general application to be issued by the Ministry.

(19) If a bank has a unit in another Member State or in a state that is not a member State, the information under paragraph 6 shall be broken down by Member State or state that is not a Member State.

### Section 38

(1) Banks and foreign bank branches shall, without requiring the consent of their client or other entity concerned under other legislation,<sup>35da</sup> send without undue delay to the Register of Bank Loans and Guarantees maintained by Národná banka Slovenska<sup>36</sup> (hereinafter 'Register') in accordance with paragraph 2 data in writing on the loans they have provided to businesses or other legal entities, on the securing of their claims arising from such loans, and on their liabilities to businesses or other legal entities in euros or in a foreign currency, as well as information on the entities concerned as stipulated in other legislation.<sup>35da</sup> Banks and foreign bank branches shall be responsible for the correctness, completeness, and up-to-dateness of the data they have sent to the Register. Banks and foreign bank branches shall, even requiring the client's consent, make corrections in the data stored in the Register if these data are incorrect, incomplete or outdated, and shall notify Národná banka Slovenska of the corrections made.

(2) The Register shall contain data on loans and collaterals, unless paragraph 10 stipulates otherwise, sent by banks and foreign bank branches in accordance with paragraph 1 and by the Export-Import Bank of the Slovak Republic in accordance with other legislation;<sup>37aa</sup> the Register is not subject to registration under other legislation.<sup>37</sup>

(3) Národná banka Slovenska may use data from the Register without requiring the consent of the client concerned in tasks, activities and functions defined in this Act and other legislation,<sup>8</sup> and it may provide data from the Register to banks, foreign bank branches, the Export-Import Bank of the Slovak Republic,<sup>37aa</sup> and to the European Central Bank without the consent of the client concerned for purposes specified in other legislation.<sup>35da</sup> Národná banka Slovenska may also provide data from the Register to clients, if the data refer to them, at the request of the clients concerned submitted on paper or by electronic delivery to an activated electronic mailbox in accordance with other legislation,<sup>37aaa</sup> the provisions of special legislation on delivery<sup>37aab</sup> do not apply. If Národná banka



Slovenska provides data from the Register in electronic form to a client, the statutory body of a client or another person demonstrably authorised to act on behalf of the client, it shall communicate electronically using the Central Portal of Public Administration.<sup>37aac</sup> A client's application requesting data from the Register in paper form must include the client's officially certified signature, the signature of the client's statutory body, or another person demonstrably authorised to act on the client's behalf. If an application in paper form is submitted by multiple persons acting on the client's behalf, it must be signed with the officially certified signature of every person acting on the client's behalf. A client's application requesting data from the Register in electronic form shall be submitted using the appropriate electronic form in the Central Portal of Public Administration and must include the qualified electronic signature<sup>37aad</sup> of the client, the client's statutory body or another person demonstrably authorised to act on the client's behalf; the provisions of other legislation<sup>37aac</sup> do not apply. If an electronic application is submitted by multiple persons acting on the client's behalf, it must be signed with the qualified electronic signature of every person acting on the client's behalf. Národná banka Slovenska may ask for an application or its attached documents to be sent in paper form if an electronic application is not completed correctly with all the required information or if it so decides based on its assessment of the application. Národná banka Slovenska will provide a client with information in accordance with the second sentence within one month from receiving a complete application in paper or electronic form. If a client finds that the Register contains incorrect or incomplete data, the client shall request their correction by the bank, the foreign bank branch, or the Export-Import Bank of the Slovak Republic which sent these data to the Register. Národná banka Slovenska may stipulate a fee for providing data from the Register to a client, which is due upon receipt of the application in paper or electronic form; these fees are also subject to the provisions of other legislation on fees charged by Národná banka Slovenska.<sup>37ab</sup>

(4) The data sent to Národná banka Slovenska under paragraph 1 remains subject to banking secrecy and they may not be provided from the Register to persons other than those named in paragraph 3. The data provided under paragraph 3 to banks, foreign bank branches, or the Export-Import Bank of the Slovak Republic, remain subject to banking secrecy and may not be disclosed to persons other than the client to whom they refer to. Národná banka Slovenska shall store the data sent to the Register in accordance with paragraph 1 for at least five years from the date of submission of a loan application, the date of loan repayment, or the date of expiry of the loan security or the loan liability accepted.

(5) Národná banka Slovenska may, on the basis of a written agreement and without requiring the client's consent, provide data from the Register to another Member State's central bank, other entity that is obliged to maintain a database comparable to the Register on condition that the terms of access to these data and the method of their protection in that Member State satisfy the requirements laid down in this Act or to the European Central Bank and national central banks of other Member States for the purposes specified in other legislation.<sup>35da</sup>

(6) The data provided to Národná banka Slovenska from the database of another Member State's central bank or other entity maintaining a database comparable to the Register on the basis of a written agreement, shall become part of the Register.

(7) For the purposes of keeping and using the Register referred to in paragraphs 1 to 6, public authorities and other entities shall, without requiring the consent of the person concerned, make available or provide free of charge to Národná banka Slovenska any information and data from the public and non-public parts of the registers they keep,<sup>37aba</sup> lists and other files of information and related collections of documents, including the Commercial Register, the register of sole traders, the register of organisations, and the register of employers, in both paper and electronic form enabling remote access via electronic communication.

(8) In a decree<sup>23</sup> to be promulgated in the Collection of Laws, Národná banka Slovenska shall stipulate details about the maintenance and use of the Register, the extent and form of data entered into or provided from the Register, the extent and form of information and materials provided in accordance with paragraph 7, the correction of data in the Register and the delivery of notifications to Národná banka Slovenska of such corrections, and the due form of an application for the provision of data from the Register and the documents to be attached; the decree shall also stipulate the values or rates of fees charged to clients for the provision of data from the Register and the details of these fees, as well as the method of their calculation, rounding, and payment.

(9) Národná banka Slovenska shall issue the Register's rules of operation, stipulating rules and procedures concerning hardware, software and security to safeguard the data that are extracted from or entered into the Register, as well as organisational arrangements for the Register's operation. The Register's rules of operation shall be binding upon banks, foreign bank branches, the Export-Import Bank of the Slovak Republic<sup>37aa</sup> and other entities concerned which provide data to the Register or receive information from it. The decision of Národná banka Slovenska regarding the issuance of the Register's rules of operation is approved by the Bank Board of Národná banka Slovenska and becomes effective and enters into force on the day of its publication in the Journal of Národná banka Slovenska,<sup>30zu</sup> unless a later date of entering into force is stipulated in the decision; no appeal against this decision may be lodged and the decision may not be examined by an administrative court.<sup>30zv</sup>

(10) If an apartment owners' association<sup>35ba</sup> or an administrator of an apartment building<sup>35bb</sup> conclude, in accordance with the administration contract, a loan agreement for repairing, reconstructing or modernising shared spaces, shared equipment and appurtenances of the apartment building<sup>37abb</sup> on behalf of and for the account of owners of apartments in the apartment building, banks and foreign bank branches are not to enter data concerning such loans into the Register. Where an apartment owners' association or an administrator of an apartment building are not the providers of collateral for the liability arising from the loan agreement for repairing, reconstructing or modernising shared spaces, shared equipment and appurtenances of the apartment building, banks and foreign bank branches are not to enter data concerning such collateral to the Register.

### Section 38a

(1) Banks and foreign bank branches shall carry out a risk analysis related to the security of the premises where business with clients is conducted by their employees and also cash is handled by them and update this analysis within the timeframe set out in paragraph 5 and always within 30 days of a robbery taking place at the premises or of a breaking into the premises being identified.

(2) Banks and foreign bank branches shall secure the premises where business with clients is conducted by their employees and cash is handled by them as follows:

- (a) with a functional and active security system combined with an alarm system, which are to be connected to a Police Corps alarm monitoring facility, an alarm system operated by a private security service, the municipal police or the bank's own security service, or the workplaces are to be protected physically by guards;
- (b) with a functional and active security camera monitoring system with 24-hour quality recording enabling the identification of persons;
- (c) with other necessary security provisions based on the risk analysis made in accordance with paragraph 1.

(3) Banks and foreign bank branches shall not allow public access to the premises where business with customers is conducted by their employees and cash is handled by them if none of the measures referred to in paragraph 2(a) and (b) is functional and active.

(4) Furthermore, banks and foreign bank branches shall:

- (a) discuss with the competent Police Corps unit the risk analysis mentioned in paragraph 1 and the security provisions set out in paragraph 2;
- (b) provide the Police Corps, upon request, with records and data obtained by the devices specified in paragraph 2(b), for the purpose of discharging the responsibilities of the Police Corps.

(5) In a decree to be promulgated in the Collection of Laws, Národná banka Slovenska shall specify the contents and scope of a risk analysis under paragraph 1, a timeframe for its updating, the definition of security provisions under paragraph 2, and the requirements related to these security provisions.

## **DIVISION SEVEN BUSINESS DOCUMENTATION**

### **Section 39**

(1) Banks and foreign bank branches shall maintain a trading book, which, for the purposes of this Act, means a trading book as defined in other legislation.<sup>37ac</sup> Requirements for how to maintain a trading book shall be laid down by the bank or foreign bank branch concerned in its internal regulations.

(2) Positions in individual financial instruments or in individual commodities which a bank or a foreign bank branch holds for trading mean those positions in which financial instruments or commodities are held for short-term sale and with the objective of earning income from the actual or expected differences between their buying and selling prices or from other changes in their prices or in the interest rates thereon.

(3) Positions which a bank or a foreign bank branch records in the trading book shall represent positions in individual financial instruments or commodities established during own-account trading, positions in individual financial instruments or in individual commodities arising from the provision of investment services to the client, and positions in individual financial instruments or in individual commodities arising from market making. The trading book may also record positions arising from internal collateral. Banks and foreign bank branches shall lay down rules and procedures for internal collateral arrangements in an internal regulation and shall also ensure consistent monitoring of all internal collateral agreements concluded.

(4) Banks and foreign bank branches shall stipulate in an internal regulation a procedure and method for the management of individual positions or of the aggregate position recorded in the trading book, and for the management of risks arising from these positions or from the aggregate position. By issuing such internal regulation, banks and foreign bank branches shall demonstrate their trading intention.

(5) For the purposes of capital requirement calculation, banks and foreign bank branches shall stipulate in an internal regulation a procedure for determining which positions in financial instruments or commodities should be recorded in the trading book, and they shall do so in accordance with the rules set out in paragraphs 1 to 4 and having regard to the character of their risk management system.

Banks and foreign bank branches shall ensure the regular verification of whether positions in financial instruments and in commodities are being recorded in the trading book in accordance with this internal regulation; the verification results shall be recorded in writing, and adherence to the procedure for determining which financial instrument or commodity positions are to be recorded in the trading book shall be subject to regular internal audit.

(6) Banks and foreign bank branches shall value on a daily basis all positions recorded in the trading book. For the valuation of positions recorded in the trading book, banks and foreign bank branches shall use the market prices of the given day. If the market price of a financial instrument or commodity is not available for the given day, this financial instrument or commodity may be valued at another appropriate price. To determine another appropriate price for a financial instrument or commodity, banks and foreign bank branches shall use a qualified estimate based on their own method.

(7) Banks and foreign bank branches shall maintain a banking book and make daily entries therein of transactions and positions that are not recorded in the trading book under paragraphs 1 to 6. Banks shall value all positions recorded in the banking book, with regard to the degree of credit risk.

(8) For the purposes of maintaining a trading book and a banking book:

- (a) 'financial instrument' means an investment instrument,<sup>37a</sup> other security, other derivative or legal relationship on the basis of which one party to the legal relationship acquires a financial asset and the other party to the legal relationship acquires a financial liability or equity instrument;
- (b) 'commodity' means a tangible object or controllable energy, especially output, electrical energy and raw material, including precious metals other than gold, which is traded or may be traded on a secondary commodity market.

(9) Banks and foreign bank branches shall keep an analytical record of the assets and liabilities they handle in their own name for a client's account, separately from their own assets and liabilities.

(10) Banks and foreign bank branches shall, in accordance with other legislation,<sup>38</sup> record in their accounts each accounting event related to a banking activity or other activity they engage in as at the date when the accounting event took place.

(11) In addition to financial statements under other legislation,<sup>30d</sup> banks and foreign bank branches shall prepare interim financial statements as at the last day of each calendar quarter. Banks and foreign bank branches shall submit interim financial statements in writing to Národná banka Slovenska within 30 calendar days following the end of the respective calendar quarter.

(12) In addition to financial statements under other legislation,<sup>30d</sup> legal entities belonging to a consolidated group as defined in Section 44 shall prepare interim financial statements as at the end of the calendar half-year.

(13) A parent bank or a parent financial holding company shall prepare interim consolidated financial statements as at the end of the calendar half-year. A parent bank or a parent financial holding company shall submit interim consolidated financial statements in writing to Národná banka Slovenska within 60 calendar days following the end of the respective calendar half-year.

(14) Banks and foreign bank branches shall keep records of assets and liabilities<sup>30d</sup> according to the risks or losses associated with them. On the basis of these records, banks and foreign bank

branches shall compile and submit to Národná banka Slovenska a report on the balance of assets and liabilities.

(15) In a decree<sup>23</sup> to be promulgated in the Collection of Laws, Národná banka Slovenska shall stipulate:

- (a) requirements for maintaining a trading book under paragraph 1, including a definition of the term ‘management of the trading book and hedging of transactions in financial instruments and in commodities’;
- (b) requirements for recording positions arising from internal collateral arrangements in the trading book under paragraph 3;
- (c) requirements for the procedure and method used in managing individual positions or aggregate positions recorded in the trading book under paragraph 4;
- (d) the minimum extent of the areas to which the overall management of the trading book under paragraph 4 refers;
- (e) valuation rules for trading-book positions and the frequency of valuations, where the market price is not available as mentioned in paragraph 6;
- (f) the details of how to maintain the trading book in accordance with paragraphs 1 to 6;
- (g) the details of records of assets and liabilities and the keeping of such records in accordance with paragraph 14, as well as the contents, form, and breakdown of the relevant report, and the deadline, method, and place of its submission;
- (h) repealed as from 1 August 2014.

#### Section 40

(1) In a written contract with an auditor, banks and foreign bank branches shall provide for:

- (a) the preparation of an audit report focusing on the verification of data used in reports required by Národná banka Slovenska under Section 42(2);
- (b) the verification for correctness of the accounting records at the written request of Národná banka Slovenska in the course of a calendar year; if no shortcomings are revealed, Národná banka Slovenska shall compensate the bank concerned for its necessary expenses;
- (c) the preparation of an extended report<sup>41</sup> with a layout stipulated by Národná banka Slovenska in a decree<sup>23</sup> promulgated in the Collection of Laws;
- (d) the verification of data for correctness in accordance with Section 37(6).

(2) Banks and foreign bank branches shall submit to Národná banka Slovenska an audit report in accordance with paragraph 1(a) and (c) by 30 June of the year following the calendar year that was audited. Under other legislation,<sup>40</sup> audit reports on the annual financial statements of banks shall be deposited in the public section of the register of financial statements<sup>34</sup> and those on the financial statements of foreign bank branches in the non-public section of the register<sup>34</sup> by 30 June following the accounting period for which the annual financial statements were audited.

(3) Banks and foreign bank branches shall notify Národná banka Slovenska in writing of the auditor or audit firm that has been commissioned to examine the financial statements, and shall do so by 30 June of the calendar year or the middle of the accounting period for which the audit is to be performed; this also applies to auditors or audit firms providing audit services to banks or foreign bank branches on behalf of and for the account of another auditor or audit firm. Národná banka Slovenska is entitled to refuse an auditor or audit firm by 31 August of that calendar year or within eight months from the beginning of the accounting period following the delivery of such notification. Where a bank or a foreign bank branch has obtained banking authorisation in the current calendar year, notification shall be given within three months from the effective date of the decision to issue a banking authorisation. In such cases, Národná banka Slovenska is entitled to refuse the proposed

auditor or audit firm within 30 days from the date of receipt of a notification. Within 45 days from when the decision on refusal took effect, the bank or foreign bank branch concerned shall inform Národná banka Slovenska in writing of the new auditor or audit firm. If Národná banka Slovenska refuses even the choice of another auditor or audit firm, Národná banka Slovenska shall appoint an auditor or an audit firm to examine the financial statements.

(4) A person in a special relationship with the bank as defined in Section 35(4)(a) to (h), (j) and (k) and in Section 35(5)(a) to (h) and (j), for reasons set out in other legislation,<sup>42</sup> or an auditor who fails to meet the requirements set out in paragraph 5, or the bank's receiver or deputy receiver during receivership, or an external advisor, may not be appointed as an auditor. The same applies to natural persons who act as auditors for and on behalf of an audit firm.

(5) The auditor shall inform without delay Národná banka Slovenska and the bank's supervisory board in writing of any facts the auditor may find in the course of audit in respect of facts leading to an expression of qualified opinion on the annual financial statements of the bank or foreign bank branch concerned and about identified violations of laws and other legislation of general application. The auditor shall immediately notify Národná banka Slovenska of the following findings:

- (a) a bank is over-indebted;<sup>43</sup>
- (b) a bank or a foreign bank branch produces untrue, incorrect, or incomplete financial statements and reports at the request of Národná banka Slovenska under Section 42(2).

(6) A bank shall be deemed over-indebted if its assets, including claims, are exceeded by its liabilities.

(7) An auditor shall, at the written request of Národná banka Slovenska, provide documentation on facts specified in paragraph 5 and other information and supporting documentation obtained during the performance of its activities in a bank or a foreign bank branch.

(8) Where an auditor fails to meet the requirements set out in paragraphs 5 and 7, Národná banka Slovenska is entitled to order the auditor to be replaced.

(9) Banks and foreign bank branches shall ensure the protection of electronically processed and stored data against misuse, destruction, damage, theft, or loss.

(10) Banks and foreign bank branches shall, once a year, arrange a security audit of their information system used for banking data processing and storage, and shall inform Národná banka Slovenska about this audit in writing.

## **Section 41**

(1) Banks and foreign bank branches shall notify Národná banka Slovenska of any intention to introduce a new type of transactions, together with an evaluation of such transactions by the internal control and internal audit unit in accordance with Section 23(4).

(2) Banks and foreign bank branches shall notify Národná banka Slovenska without undue delay of any shortcomings found in the course of their activities under Section 23(4).

(3) Banks and foreign bank branches shall, by 31 March of each calendar year, submit to Národná banka Slovenska a report on the results of activities of their internal control and internal audit unit for the previous calendar year, on measures adopted to remedy any shortcomings in their operations detected by the internal control and internal audit unit, and an approved plan of controlling

activities for the current calendar year. Such report on the results of activities of the internal control and internal audit unit shall also include the results of controlling activities, the findings and the measures taken by the bank or foreign bank branch concerned against money laundering and terrorist financing.

(4) For the purposes of this Act, ‘type of transaction’ means a set of transactions within the scope of banking activities specified in Section 2(1) and (2), for which certain attributes or contractual conditions for their provision by a bank or a foreign bank branch are typical. Changes in interest rates or other price changes in respect of a transaction contracted shall not constitute a new type of transaction.

## Section 42

(1) Banks, foreign banks, and foreign bank branches shall store data and copies of documents proving the identity of clients, documents certifying the ownership of funds used by clients to conduct transactions, and other documents on transactions, and shall protect these data and documents against damage, alteration, liquidation, loss, theft, disclosure, misuse, and unauthorised access for at least five years after a transaction, contract, etc. is concluded.

(2) Banks, foreign banks, and foreign bank branches shall produce and present to Národná banka Slovenska returns, statements, and other reports in the stipulated manner, by the stipulated deadlines; the structure, scope, contents, form, classification, deadlines, method, procedure, and place of their presentation, including the methodology of preparation shall be stipulated by Národná banka Slovenska in a decree<sup>23</sup> promulgated in the Collection of Laws. Data and other information contained in returns, notifications and other reports must be comprehensible, easy to follow, supportable, must give a true and fair picture of the facts reported, and must be presented in due time. If the presented returns, notifications, and other reports fail to comply with the prescribed methodology, or if reasonable doubts arise as to their correctness or completeness, banks, foreign banks, and foreign bank branches shall provide Národná banka Slovenska with supporting material and explanation upon request, within the stipulated time limit.

(3) Banks, foreign banks, and foreign bank branches shall submit to Národná banka Slovenska data from their accounting and statistical records in the form of returns, reports, or reviews in the stipulated manner, by the stipulated deadlines. The scope, method, and deadlines for such submission shall be stipulated by Národná banka Slovenska in a decree promulgated in the Collection of Laws.

(4) At the request of the Ministry and within the period stipulated thereby, banks, foreign banks, and foreign bank branches shall submit to the Ministry the requested returns, reports, reviews, interim financial statements, interim consolidated financial statements, or other reports submitted to Národná banka Slovenska in accordance with paragraph 2, Section 39(11) and (13) and Section 45(3) of this Act and other legislation<sup>43a</sup> for the purposes stated in other legislation.<sup>43b</sup> Such data disclosures shall not be deemed to be a breach of banking secrecy under Section 91.

(5) Foreign bank branches established outside the European Union shall, on an annual basis, produce and submit to Národná banka Slovenska information on:

- (a) the total value of assets corresponding to the scope of the foreign bank branch’s activities;
- (b) liquid assets held at the foreign bank branch, in particular the liquid assets in Member State’s currencies;
- (c) long-term financial resources that have been provided to the foreign bank branch;
- (d) the deposit protection system used to cover the deposits of the foreign bank branch’s clients;
- (e) the risk management system;

- (f) the management system and internal control system, including the internal control function and internal audit function;
- (g) recovery plans concerning the foreign bank branch; and
- (h) other facts that Národná banka Slovenska considers required for the exercise of supervision.

(6) Národná banka Slovenska shall report to the European supervisory authority (European Banking Authority) information on:

- (a) banking authorisation granted in accordance with Section 8, as well as any changes to these authorisations;
- (b) total assets and liabilities of foreign bank branches referred to in point (a) according to regular statements;
- (c) the name of the group of which a foreign bank branch established outside of the European Union is part.

### **Section 43**

The provisions of this part of the Act are without prejudice to the duties of banks and foreign bank branches stipulated in other legislation.<sup>39</sup>

## **DIVISION EIGHT SUPERVISION ON A CONSOLIDATED BASIS**

### **Section 44**

(1) ‘Supervision on a consolidated basis’ means supervision of a consolidated group for the purpose of monitoring and mitigating the risks to which a bank is exposed by virtue of its membership of a consolidated group.

(2) A consolidated group shall comprise:

- (a) a parent bank or an EU parent bank, and at least one bank, financial institution, or ancillary banking services undertaking over which the parent bank or EU parent bank exercises control or in which it has a participating interest;
- (b) a parent financial holding company, mixed-activity parent financial holding company, EU parent financial holding company, or EU parent mixed-activity financial holding company, and at least one bank over which a parent financial holding company, parent mixed-activity financial holding company, EU parent financial holding company, or EU parent mixed-activity financial holding company exercises control or in which it has a participating interest; or
- (c) a mixed-activity holding company and at least one bank over which the mixed-activity holding company exercises control or in which it has a participating interest.

(3) Národná banka Slovenska shall exercise supervision over a consolidated group as defined in paragraph 2(c) to the extent of monitoring the intragroup transactions made under Section 49i(2) between a mixed-activity holding company and a bank that is part of a consolidated group pursuant to paragraph 2(c), and to the extent of providing information in accordance with Section 45(6).

(4) Národná banka Slovenska shall maintain a list of financial holding companies or mixed-activity financial holding companies in accordance with other legislation<sup>44</sup> and paragraph 2(b). This list shall be forwarded to the Member States’ competent supervisory authorities, the European supervisory authority (European Banking Authority), and to the Commission.



(5) In supervising a consolidated group as defined in paragraph 2(a) or (b), Národná banka Slovenska is entitled to exclude, from the consolidated group under supervision, any person:

- (a) whose registered office is located in a country where there are legal impediments to the exchange of information for the purpose of exercising supervision on a consolidated basis;
- (b) whose inclusion in the group has no relevance for the purposes of supervision on a consolidated basis, in particular if the person's total assets are worth less than EUR 10,000,000 or less than 1% of the total assets of the bank or financial holding company or mixed-activity financial holding company; or
- (c) whose inclusion in supervision on a consolidated basis is not appropriate in respect of the tasks of supervision on a consolidated basis.

(6) Supervision on a consolidated basis shall, however, be exercised over the persons mentioned in paragraph 5(b) where more than one of these persons jointly have relevance for the purposes of supervision on a consolidated basis.

(7) Where a person is excluded under paragraph 5(b) or (c), Národná banka Slovenska shall notify that person of this fact; such person shall provide upon request any information required for the exercise of supervision to the competent supervisory authority of the Member State in which the parent undertaking has its registered office.

(8) Národná banka Slovenska may request the information mentioned in Section 45(3) to (5) and Section 46(1) from the subsidiaries of a bank, financial holding company, mixed-activity financial holding company, or mixed-activity holding company that are not included in a consolidated group under paragraph 2. In such cases, the information requested shall be transmitted and verified using the procedures described in the said provisions.

(9) Národná banka Slovenska is entitled to exclude from supervision a subsidiary that is a bank and to delegate its supervision to another Member State's competent supervisory authority, provided that this authority exercises supervision over the bank's parent undertaking and that the bank in question has been authorised by Národná banka Slovenska. Such exclusion shall take place on the basis of a written agreement made under other legislation<sup>44a</sup> between Národná banka Slovenska and the competent supervisory authority of the Member State concerned. Národná banka Slovenska shall notify the European supervisory authority (European Banking Authority) of this agreement.

(10) Where a bank whose a parent undertaking is a foreign bank with a registered office in a third country, or a financial holding company with a registered office in a third country, or a mixed-activity financial holding company with a registered office in a third country is not subject to supervision on a consolidated basis under this Act, Národná banka Slovenska shall verify whether the bank is subject to supervision equivalent to supervision on a consolidated basis under this Act. In doing so, Národná banka Slovenska shall take into account any guidance issued by the European Banking Committee and shall act in consultation with the European supervisory authority (European Banking Authority).

(11) Národná banka Slovenska shall verify the fact stated in paragraph 10 at its own initiative or at the request of a regulated entity holding a banking authorisation issued in a Member State or at the request of the parent undertaking.

(12) If, under paragraph 11, Národná banka Slovenska finds that the supervision exercised over a bank is not equivalent to supervision on a consolidated basis under this Act, it shall, after consulting with the Member States' competent supervisory authorities, include this bank in supervision on a consolidated basis or shall exercise other appropriate supervisory procedures that

ensure the objectives of such supervision. For the purpose of inclusion in supervision on a consolidated basis, Národná banka Slovenska may in particular require the establishment of a financial holding company with a registered office in a Member State. These procedures shall be reported by Národná banka Slovenska to the Member States' competent supervisory authorities, to the European supervisory authority (European Banking Authority), and to the Commission.

(13) For the purposes of this Act, the following definitions apply:

- (a) 'holding' means the ownership, direct or indirect or a combination thereof, of at least 20% of the share capital or voting rights of a legal person, or the possibility of exercising an influence over the management of this legal person, which is comparable with the influence corresponding to such ownership;
- (b) 'regulated person' means a bank, investment firm, insurance or reinsurance company, asset management company, alternative investment fund manager, or an equivalent foreign undertaking.

(14) Where a group includes a parent mixed financial holding company and Národná banka Slovenska exercising supervision on a consolidated basis is not an authority that exercises supplementary supervision pursuant to Sections 49a to 49o or other legislation,<sup>24f</sup> for the purposes of applying this Act and other legislation<sup>30x</sup> on a consolidated basis it shall cooperate with competent supervisory authorities of Member States that are responsible for the supervision of regulated persons included in the financial conglomerate. In order to facilitate and establish an effective cooperation, Národná banka Slovenska shall make every effort to conclude written agreements on coordination and cooperation with the competent supervisory authorities referred to in the first sentence.

(15) The provisions on consolidated supervision under paragraphs 1 to 14 shall be without prejudice to the provisions of Section 20a.

## Section 45

(1) A parent bank shall ensure that the consolidated group to which it belongs also complies with the provisions of Sections 23 and 27 and Section 29(4).

(2) Where a bank that is a subsidiary also controls a financial institution or an asset management company with a registered office in a third country or has a holding in such entities, this bank shall ensure that the consolidated group to which it belongs complies with the provisions of Sections 23 and 27 and Section 29(4); the same obligation shall fall to a bank where the said control or holding is exercised or held by its parent financial holding company or its parent mixed-activity financial holding company.

(3) A person included in a consolidated group under Section 44(2)(a) or (b) shall produce and submit to Národná banka Slovenska, either directly or through a parent bank or parent financial holding company or parent mixed-activity financial holding company, or through a bank designated by Národná banka Slovenska, any statements, reports, and other disclosures required for the exercise of supervision on a consolidated basis, in the stipulated manner within the stipulated time limits; the parent bank or parent financial holding company or mixed-activity financial holding company or parent mixed-activity financial holding company shall produce and submit to Národná banka Slovenska any statements, reports, and other disclosures required for the exercise of supervision on a consolidated basis, in the stipulated manner within the stipulated time limits; their structure, scope, contents, form, classification, deadlines, method, procedure, and place of presentation, including the methodology of preparation, shall be stipulated by Národná banka Slovenska in a decree<sup>23</sup> to be promulgated in the Collection of Laws. Data and other information contained in these statements,

reports, and other disclosures shall be comprehensible, transparent, and conclusive, shall give a true picture of the reported facts, and shall be submitted in due time. If the submitted statements, reports, and other disclosures do not comply with the stipulated methodology, or if there are reasons to doubt their accuracy or completeness, the bank, financial holding company, or other person that produced and submitted them shall, at the request of Národná banka Slovenska, submit documents and give an explanation within the time limit set by Národná banka Slovenska.

(4) The auditor of a person that is included in a consolidated group under Section 44(2)(a) or (b) shall, for the purposes of supervision on a consolidated basis, provide information to Národná banka Slovenska and to the auditors of the parent bank or parent financial holding company or parent mixed financial holding company.

(5) A parent bank or parent financial holding company or parent mixed financial holding company shall notify Národná banka Slovenska of the auditors who will carry out an audit of persons that are included in a consolidated group under Section 44(2)(a) or (b), no later than by the end of the calendar year for which the audit is to be conducted.

(6) Paragraphs 3 and 4 shall likewise apply to mixed-activity holding companies under Section 44(2)(c), to persons included in a consolidated group under Section 44(2)(c), and to the auditors of such persons.

## Section 46

(1) A person included in a consolidated group under Section 44(2) shall put in place control mechanisms to ensure that the information provided for the purposes of supervision on a consolidated basis is correct, and shall also ensure that the consolidated group complies with the provisions of Section 23 so that the control mechanisms are sufficiently harmonised within the internal control system and that the information required for supervision on a consolidated basis is accessible and sound. For the purposes of supervision on a consolidated basis, persons included in a consolidated group shall provide each other with the information required to meet the obligations arising from their inclusion in the consolidated group. Subsidiaries included in a consolidated group that are not subject to this Act shall meet on an individual basis the requirements set out in other legislation.<sup>44b</sup>

(2) Národná banka Slovenska may conduct on-site inspections,<sup>45</sup> or may request another Member State's competent supervisory authority to conduct on-site inspections, of persons included in a consolidated group under Section 44(2) and having a registered office in another Member State, for the purposes of supervision on a consolidated basis; Národná banka Slovenska shall carry out an on-site inspection if so requested by another Member State's competent supervisory authority.

(3) For the purposes of supervision on a consolidated basis, a parent bank or parent financial holding company shall ensure that persons included in a consolidated group under Section 44(2) are audited. At the request of the parent bank or parent financial holding company, these persons shall conclude an audit contract.

(4) The requirements set out in Sections 23a to 23d do not apply on a consolidated basis to subsidiaries established in:

- (a) a Member State where they are subject to specific remuneration requirements in accordance with European Union law;
- (b) in a third country where they would be subject to specific remuneration requirements in accordance with European Union law if they were established in a Member State.

## Section 47

(1) Where a bank is included in a consolidated group over which supervision is exercised by another Member State's competent supervisory authority, Národná banka Slovenska shall be entitled to agree the conditions of supervision on a consolidated basis and the method of information exchange in a written agreement concluded between Národná banka Slovenska and the other Member State's competent supervisory authority. The concluding of such agreement shall be proposed by Národná banka Slovenska where the bank included in a consolidated group under Section 44(2)(a) or (b) has its registered office in another Member State. In the absence of such agreement, Národná banka Slovenska shall exercise supervision on a consolidated basis if the bank with the largest balance sheet total within the consolidated group has its registered office in the Slovak Republic. If, within a consolidated group, a bank has the same balance sheet total as a foreign bank with a registered office in another Member State, Národná banka Slovenska shall exercise supervision on a consolidated basis if the bank had been authorised earlier than the foreign bank.

(2) Národná banka Slovenska shall also exercise supervision on a consolidated basis over banks with a registered office in another Member State, provided they are included in a consolidated group under Section 44(2)(b).

(3) Národná banka Slovenska shall exercise supervision under paragraph 2 only if at least one of the subsidiaries of a parent investment firm under other legislation<sup>45aaa</sup> or an EU parent investment firm under other legislation<sup>45aaa</sup> is a bank, unless paragraph 18 provides otherwise. Where a parent investment firm under other legislation<sup>45aaa</sup> or an EU parent investment firm under other legislation<sup>45aaa</sup> exercises control over or has a participating interest in multiple credit institutions, Národná banka Slovenska shall exercise supervision under paragraph 2, provided that among the banks included in the consolidated group concerned, the bank with the largest balance sheet total is established in the Slovak Republic.

(4) Národná banka Slovenska shall exercise supervision under paragraph 2 only if the only bank included in the consolidated group under Section 44(2)(b) is established in the Slovak Republic, unless paragraph 18 provides otherwise. Národná banka Slovenska shall also exercise supervision under paragraph 2 if, among the banks included in a consolidated group of a financial holding company established in another Member State or a mixed financial holding company established in another Member State, the bank with the largest balance sheet total is established in the Slovak Republic. Národná banka Slovenska shall also exercise supervision under paragraph 2 if the investment firm with the largest balance sheet total is established in the Slovak Republic and the group does not include a bank, unless the second sentence of paragraph 18 provides otherwise.

(5) In the cases mentioned in paragraphs 2, 3 and 4, Národná banka Slovenska may, by common written agreement with the other Member States' competent supervisory authorities, waive the conditions laid down in these paragraphs if their application would be inappropriate in regard to the nature of the banks and the significance of their activities in different countries or if it is necessary to ensure continuity of supervision on a consolidated basis by the same supervisory authority of another Member State, and appoint the competent supervisory authority of another Member State to exercise supervision on a consolidated basis. In these cases, Národná banka Slovenska shall, if necessary, give the EU parent bank or EU parent financial holding company or EU parent mixed financial holding company or the bank with the largest balance sheet total an opportunity to state its opinion on the decision proposed in cooperation with the other Member States' competent supervisory authorities.

(6) At the request of another Member State's competent supervisory authority, Národná banka Slovenska shall conduct on-site inspections on a consolidated basis, or shall allow persons designated by another Member State's competent supervisory authority to conduct on-site inspections, in entities that are subject to supervision on a consolidated basis in the Member State of that supervisory authority; the details of such on-site inspections on a consolidated basis may be specified in an agreement concluded under paragraphs 1 and 5. Prior to the commencement of an on-site inspection in the territory of the Slovak Republic, the relevant supervisory authority of the Member State concerned shall notify Národná banka Slovenska thereof. Persons designated by that supervisory authority shall have the same powers, obligations and responsibilities as the staff members of Národná banka Slovenska authorised to conduct on-site inspections under other legislation; these persons, however, are not required to produce a written protocol on the inspection they carry out, nor are they required to set a time limit for adopting and implementing measures to eliminate any shortcomings found during the inspection and to notify in writing the entity under supervision thereof.

(7) Národná banka Slovenska shall meet any request received from another Member State's competent supervisory authority for information relating to the exercise of supervision on a consolidated basis.

(8) Národná banka Slovenska shall, without delay, notify the Commission and the European supervisory authority (European Banking Authority) of any written agreement concluded under paragraphs 1 and 5 and of the contents thereof.

(9) Where Národná banka Slovenska is responsible for the exercise of supervision on a consolidated basis over EU parent banks and banks which are controlled by EU parent financial holding companies or EU parent mixed financial holding companies, or in which EU parent financial holding companies or EU parent mixed financial holding companies have a participating interest, Národná banka Slovenska shall:

- (a) plan and coordinate on-site inspections of day-to-day activities in regard to the obligations laid down in Section 6(2), Sections 23 to 27, and Section 37(9) to (15) in cooperation with the competent supervisory authorities;
- (b) conduct on-site inspections and check for compliance with the requirements laid down in Sections 37, 45(1) and 46(1);
- (c) coordinate the gathering and dissemination of relevant or essential information in going concern and emergency situations for the competent supervisory authorities of other Member States;
- (d) plan and coordinate on-site inspections of day-to-day activities in cooperation with the competent supervisory authorities and, if necessary, with the central banks in preparation for and during emergency situations, including the period of adverse developments in banks or foreign banks or in financial markets, while, if possible, using the available means of communication to facilitate crisis management; the planning and coordination of activities include emergency measures under Section 49(1) and (2), the preparation of joint assessments, the implementation of contingency plans, and communication with the public;
- (e) warn the European supervisory authority (European Banking Authority) if the relevant supervisory authorities fail to cooperate to the extent necessary for the performance of tasks specified in points (a) to (d).

(10) For the purposes of this Act, the following definitions apply:

- (a) 'relevant information' means any information that is necessary for the exercise of consolidated supervision by the competent supervisory authorities of Member States;
- (b) 'essential information' means any information that may significantly influence the assessment of a bank or a financial institution established in another Member State in terms of reliability and security.

(11) In considering an application for prior approval under Sections 30 to 32, or for prior approval to use own estimates of loss given default and own estimates of conversion factors, submitted by an EU parent bank and its subsidiaries or jointly by the subsidiaries of an EU parent financial holding company, Národná banka Slovenska shall cooperate with the competent supervisory authorities of other Member States to decide whether or not to issue the approval sought and to determine the terms and conditions to which such approval should be subject. Such an application shall be submitted to Národná banka Slovenska only where it concerns an EU parent bank or a bank which is controlled by an EU parent financial holding company or an EU parent mixed financial holding company, or in which an EU parent financial holding company or an EU parent mixed financial holding company has a participating interest.

(12) Národná banka Slovenska shall make its own decision on an application as described in paragraph 11 if, within six months, a joint decision is not taken with the competent supervisory authorities of other Member States, whereby it is jointly approved as a single document containing the rationale for that decision and it is not delivered within this period to the applicant in the form of a decision on prior approval. This period shall begin on the date of receipt of a complete application by Národná banka Slovenska, which shall forward it to the competent supervisory authorities of other Member States without delay. If, within six months, any of the supervisory authorities mentioned in paragraph 11 requests the European supervisory authority (European Banking Authority) to provide assistance for negotiating an agreement under other legislation,<sup>18ab</sup> Národná banka Slovenska shall decide on the application under paragraph 11 in accordance with the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) does not issue such decision within one month from when the request for assistance is delivered, Národná banka Slovenska shall make its own decision on the application.

(13) A decision taken by Národná banka Slovenska under paragraph 11, including the complete rationale and the opinions of other Member States' competent supervisory authorities expressed during the six-month period, shall be delivered to the applicant and forwarded to the other supervisory authorities.

(14) Národná banka Slovenska shall proceed as appropriate under paragraphs 11 to 13 where a bank whose registered office is in the territory of the Slovak Republic is subject to consolidated supervision by another Member State's competent supervisory authority.

(15) Národná banka Slovenska as a consolidating supervisor shall:

- (a) make, within its supervisory powers and jointly with the supervisory authorities competent to exercise supervision over the subsidiaries of an EU parent bank or an EU parent financial holding company or an EU parent mixed financial holding company, every effort to reach a joint decision:
  - 1. on the application of Sections 6(2) and 27(7) in order to determine the adequacy of the consolidated level of own funds held by the group with respect to its financial situation and risk profile, and the required level of own funds for the application of Section 50(1)(m) to each entity within the group on a consolidated basis;
  - 2. on measures to address any significant matters and material findings relating to liquidity supervision, including those relating to the adequacy of the organisation and treatment of liquidity risks as required under Section 23(6)(a) point 4, and relating to the need for institution-specific liquidity requirements;
  - 3. on all recommendations on additional own funds pursuant to Section 29a(2);
- (b) submit to the other competent supervisory authorities a report containing:
  - 1. the risk assessment of the group of institutions on a consolidated basis under Section 29b for the purposes of point (a)(1);

2. the assessment of the liquidity risk profile of the group on a consolidated basis under Sections 23(6)(a) point 4 for the purposes of point (a)(2);
  3. the risk assessment of the group of institutions on a consolidated basis under Section 29a for the purposes of point (a)(3);
- (c) reach a joint decision referred to in point (a) within four months after a report is submitted in accordance with point (b);
  - (d) consider, in a joint decision taken under point (c), the risk assessment of subsidiaries made by the competent supervisory authorities under Section 6(2), Section 27(7), and Sections 29a and 29b, and give full justification;
  - (e) deliver the joint decision mentioned in point (c) to the EU parent bank concerned;
  - (f) consult, at the request of another competent supervisory authority, discrepancies arising in connection with the decision with the European supervisory authority (European Banking Authority); when the European supervisory authority (European Banking Authority) gives its opinion, Národná banka Slovenska shall consider its recommendations and explain any significant deviation;
  - (g) consult its approach with the European supervisory authority (European Banking Authority) on its own initiative;
  - (h) issue a decision under Section 50(1)(m) and Section 29a in conjunction with Section 6(2) in case of non-compliance with Section 27(7) on a consolidated basis, where a joint decision under point (c) is not reached, while duly considering the risk assessment of subsidiaries made by the competent supervisory authorities, including their opinions and reservations;
  - (i) substantiate decisions issued under point (h);
  - (j) submit the decision made under point (h) to the competent supervisory authorities and to the EU parent bank concerned;
  - (k) issue a joint decision under point (c) or, if such decision does not exist, it shall issue a decision in accordance with point (h);
  - (l) review whether a decision is up-to-date and, if necessary, it shall update a joint decision issued under point (c), and if there is no such decision, it shall examine the current situation and, if necessary, it shall issue a new decision under point (h), while a change or cancellation of an existing decision issued under point (h) is also deemed to be a new decision; a verification of whether a decision is up-to-date and a possible issue of a new decision is to take place at least once a year, or if the supervisory authority competent to exercise supervision over the subsidiaries of an EU parent bank or EU parent financial holding company or EU parent mixed financial holding company asks for the issue of a new decision as required under Section 50(1)(m) and Section 29a by submitting a written and duly justified application to Národná banka Slovenska, in which case a verification of whether the decision is up-to-date and a possible issue of a new decision may be carried out on a bilateral basis between Národná banka Slovenska and the competent supervisory authority that has submitted the application;
  - (m) proceed as appropriate in accordance with points (a) to (l), where a bank as referred to Section 2(1) is placed under consolidated supervision exercised by another Member State's competent supervisory authority; a joint decision reached with the competent consolidating supervisor shall be binding for any bank that is subject to consolidated supervision.

(16) If, within the time limit specified in paragraph 15(c), any of the supervisory authorities mentioned in paragraph 15 requests the European supervisory authority (European Banking Authority) to provide assistance for negotiating an agreement under other legislation,<sup>19</sup> Národná banka Slovenska shall decide in the matter as required by paragraph 15(c) in accordance with the decision of the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue such decision within one month from when the request for assistance is delivered, Národná banka Slovenska shall decide independently.

(17) Where consolidation is required pursuant to other legislation,<sup>45aaaa</sup> Národná banka Slovenska shall exercise supervision on a consolidated basis if the bank with the largest balance sheet total is included in the consolidation group concerned. Where the consolidation group concerned does not include any bank, Národná banka Slovenska shall exercise supervision referred to in the first sentence if the consolidation group includes the investment firm with the largest balance sheet total.

(18) Národná banka Slovenska shall exercise supervision on a consolidated basis where the sum of the balance sheet totals of the banks included in the group that are supervised by Národná banka Slovenska is higher than that of the banks supervised on an individual basis by any other competent supervisory authority of another Member State. Národná banka Slovenska shall exercise supervision on a consolidated basis if it exercises supervision on an individual basis over one or multiple investment firms included in the group with the largest balance sheet total.

### Section 48

(1) Where an emergency situation arises, including adverse financial market conditions, which potentially jeopardises the market liquidity and stability of the financial system in any of the Member States, where entities of a group of banks or foreign banks have been authorised or where significant branches as referred to in Section 6(14) are established, Národná banka Slovenska shall, with regard to the duty of confidentiality, alert as soon as practicable the Ministry and the competent supervisory authority in charge of consolidated supervision of all facts that are important for the performance of their tasks. Where Národná banka Slovenska is responsible for the exercise of supervision on a consolidated basis and an emergency situation arises, including a situation described in other legislation<sup>45aa</sup> or adverse financial market conditions, which potentially jeopardise market liquidity and the stability of the financial system in any of the Member States, where entities of a group of banks or foreign banks have been authorised or where significant branches as referred to in Section 6(14) are established, Národná banka Slovenska shall, with regard to the duty of confidentiality, alert as soon as practicable the European supervisory authority (European Banking Authority), the European Systemic Risk Board, the competent supervisory authorities of other Member States, the Ministry, and other public authorities and persons whose activities are related to supervision, and shall provide them with any information that is relevant to the performance of their tasks.

(2) Národná banka Slovenska shall, when it needs information that has already been provided to another Member State's competent supervisory authority, contact this authority whenever possible in order to prevent duplication of reporting to the various authorities involved in supervision.

(3) In order to increase the effectiveness of supervision, Národná banka Slovenska, as a consolidating supervisor, shall conclude with the competent supervisory authorities of other Member States written agreements on coordination and cooperation in regard to the exercise of supervision on a consolidated basis.

(4) The agreements mentioned in paragraph 3 may impose additional obligations on Národná banka Slovenska in regard to the exercise of supervision on a consolidated basis and provide details about the common approach to be followed by consolidating supervisors, and details about the decision-making process.

(5) When exercising supervision, Národná banka Slovenska shall cooperate with the competent supervisory authorities of other Member States; in doing so, it shall provide them with any information that is relevant (on request) and essential (on its own initiative) for the exercise of supervision on a consolidated basis in accordance with regulations comparable with this Act. Národná



banka Slovenska shall cooperate with the European supervisory authority (European Banking Authority) and supply it with any information needed for the performance of tasks under other legislation.<sup>45ab</sup> Národná banka Slovenska shall alert the European supervisory authority (European Banking Authority) whenever:

- (a) the competent supervisory authority of another Member State fails to provide Národná banka Slovenska with the necessary information; or
- (b) the competent supervisory authority of another Member State refuses or fails to meet the request of Národná banka Slovenska for information.

(6) Where a bank whose registered office is located in another Member State is included in a consolidated group under Section 44(2)(a) or (b), Národná banka Slovenska shall provide that Member State's competent supervisory authority, which exercises supervision over this bank, with all relevant information. In determining the extent of relevant information, Národná banka Slovenska shall take into account the importance of these subsidiaries within the financial systems of the Member States concerned.

(7) The essential information mentioned in paragraph 5 shall include the following items:

- (a) the legal, organisational, and management structure of a consolidated group at the requested level, including all regulated entities, non-regulated entities, non-regulated subsidiaries, and significant branches belonging to the group, and parent companies included in that consolidated group under Section 7(2) and (3), Section 8(2) and (3), Section 9(4) and (5), Section 37(8) and (9), and Section 47(1) and (9), and the list of relevant supervisory authorities of other Member States, which exercise supervision over the regulated entities of that consolidated group;
- (b) the method of collecting data from banks pursuant to point (a) and the method of their verification;
- (c) the evaluation of adverse trends in the economic situation of banks under point (a) or of other persons belonging to the same consolidated group, whose behaviour may influence the economic situation of these banks;
- (d) major corrective measures taken by Národná banka Slovenska under Section 50, including the imposition of a capital requirement higher than that laid down in Section 29(4), the imposition of fines by Národná banka Slovenska under Section 50, and a decision to limit the use of the advanced measurement approach under Section 32.

(8) In a decree<sup>23</sup> to be promulgated in the Collection of Laws, Národná banka Slovenska shall stipulate:

- (a) the extent and manner of compliance with the obligations of a parent bank, and the method of consolidating data for these purposes;
- (b) the extent and manner of compliance with the obligations of a bank included in a consolidated group under Section 44(2)(a) or (b);
- (c) the definition of the terms 'emergency situation' under Section 47(9) and Section 48(1), 'significant bank' under Section 48(7) and 'major measures' under Section 48(7).

(9) Národná banka Slovenska as a consolidating supervisor shall establish a college of supervisors (hereinafter 'College') for the purpose of simplifying the performance of tasks specified in Section 47(9), (11) to (15) and Section 48(1) and, with regard to the duty of confidentiality, it shall ensure coordination and cooperation with the competent supervisory authorities of third countries. Národná banka Slovenska shall provide, through the College, for the fulfilment of the following tasks:

- (a) the exchange of information between Národná banka Slovenska, the European supervisory authority (European Banking Authority) under other legislation,<sup>45ac</sup> and other competent supervisory authorities;

- (b) the conclusion of an agreement on the voluntary delegation of tasks and duties between Národná banka Slovenska and other competent supervisory authorities;
- (c) the definition of a time schedule for inspections to be conducted by supervisory authorities, according to a risk assessment of the group under Section 6(2) and Section 47 (9);
- (d) increase in the effectiveness of supervision in connection with a request for information under Section 48(2) and (5);
- (e) the consistent application of requirements for business activities under this Act in all entities of a group of banks and foreign banks;
- (f) the application of Section 47(9)(d);
- (g) cooperation under Section 49k(2) and Section 49l;
- (h) the application of Section 47k(1) and (3).

(10) Národná banka Slovenska shall set up and ensure the functioning of the College under paragraph 9 on the basis of written agreements under Section 48(3). It may involve in the activities of the College the competent authorities responsible for supervising the subsidiaries of an EU parent bank or an EU parent financial holding company or an EU parent mixed financial holding company, the competent authorities of Member States where significant branches of credit institutions or central banks are established, the competent authorities of the Member State where financial holding companies authorised in accordance with Section 20a or mixed financial holding companies authorised in accordance with Section 20a are established and, if necessary, the competent supervisory authorities of third countries, with regard to the duty of confidentiality. Národná banka Slovenska shall:

- (a) chair the meetings of the College and shall decide which of the competent supervisory authorities are to participate in the meetings or activities of the College;
- (b) inform each member of the College in advance and accurately of the date, place, and agenda of a meeting of the College;
- (c) provide all members of the Collage with complete information on the decisions taken at the meetings or on the measures adopted;
- (d) take into account in its decisions the importance of the supervisory activities that are to be planned or coordinated for these authorities and, in particular, the possible impacts on the stability of the financial system in the Member States concerned under Section 6(2) and on the obligations under Section 6(16);
- (e) inform, in compliance with the duty of confidentiality, the European supervisory authority (European Banking Authority) of the activities of the College.

(11) If Národná banka Slovenska is a member of a College set up by the competent supervisory authority of another Member State, it shall cooperate closely with the competent supervisory authority that established the College, as well as with other members of the College and with the European supervisory authority (European Banking Authority).

(12) Where Národná banka Slovenska is the consolidating supervisor of a financial holding company or mixed financial holding company authorised in accordance with Section 20a that is established in another Member State, it shall conclude the agreement referred to in paragraph 3 with the competent supervisory authority of the Member State in which that financial holding company or mixed financial holding company is established.

(13) Národná banka Slovenska shall conclude the agreement referred to in paragraph 3 with the competent consolidating supervisor of a financial holding company or mixed financial holding company established in the Slovak Republic.

(14) Where Národná banka Slovenska exercises supervision on a consolidated basis, in order to perform the tasks referred to in paragraphs 1 to 3 and in Section 47(9), it shall also set up and ensure the functioning of the College under paragraph 9 if all cross-border subsidiaries of an EU parent bank, EU parent financial holding company or EU parent mixed financial holding company are established in a third country; competent supervisory authorities of third countries must meet a duty of confidentiality that is comparable to the duty of confidentiality laid down in this Act or other legislation.<sup>49</sup>

(15) Národná banka Slovenska and the Financial Intelligence Unit shall cooperate and exchange information to the extent necessary to perform the tasks stipulated by this Act and other legislation;<sup>45aca</sup> this does not apply where it could impede or threaten the processing of an unusual business transaction referred to in other legislation,<sup>21a</sup> the exercise of supervision or control in accordance with other legislation,<sup>45acb</sup> an ongoing criminal proceeding or other proceedings under other legislation.<sup>45acc</sup>

### **Section 49**

(1) Národná banka Slovenska shall, before issuing a decision, consult the competent supervisory authorities of other Member States whenever a decision concerns a bank included in a consolidated group among whose members are entities over which another Member State's competent supervisory authority, unless this Act provides otherwise. This consultation obligation applies to decisions issued for a bank included in a consolidated group, under which:

- (a) a change is permitted in the bank's shareholder structure or management structure;
- (b) major corrective measures or fines under Section 50 are imposed.

(2) Národná banka Slovenska shall, in accordance with paragraph 1, always consult the competent supervisory authority of another Member State where the decision under paragraph 1(b) concerns an entity that is included in consolidated supervision, which is exercised by that competent supervisory authority, except where such decision would prevent the effective decision-making process; in this case, Národná banka Slovenska shall inform the other Member States' competent supervisory authorities without delay.

(3) At the request of another Member State's competent supervisory authority in charge of consolidated supervision, Národná banka Slovenska shall verify the information needed for the exercise of supervision on a consolidated basis regarding an entity that is subject to such supervision and whose registered office is in the territory of the Slovak Republic, or it shall have such information verified by other designated persons. Persons designated by another Member State's competent supervisory authority are entitled to participate in the verification of this information by Národná banka Slovenska or they may, with the approval of Národná banka Slovenska, verify it on their own.

## **DIVISION NINE SUPPLEMENTARY SUPERVISION OF FINANCIAL CONGLOMERATES**

### **Section 49a**

Supplementary supervision of financial conglomerates (hereinafter 'supplementary supervision') means the monitoring and regulating of the risks inherent in financial conglomerates, which include banks, investment firms, insurance undertakings, reinsurance undertakings, or asset

management companies, for the purpose of minimising the risks to which a bank or other regulated entity is exposed through its participation in a financial conglomerate.

### Section 49b

For the purposes of this Act, the following definitions apply:

- (a) 'financial conglomerate' means:
1. a group if:
    - 1a. it is controlled by a regulated person;
    - 1b. the regulated person mentioned in point 1a is a parent undertaking of a financial sector entity or a person having a participating interest in a financial sector entity under Section 44(5)(m), or a person linked to another financial sector entity by a control relationship under Section 49b(d), point 3;
    - 1c. at least one of the persons in the group is from the insurance sector and at least one of them is from the banking sector or from the investment services sector;
    - 1d. the consolidated or aggregate activities of persons in the insurance sector and the consolidated or aggregate activities of persons in the banking and investment services sectors are significant according to Section 49e(2) and (4);
  2. a group if:
    - 2a. at least one of the persons in the group is a regulated person;
    - 2b. the group is not controlled by a regulated person and its activities are concentrated in the financial sector in accordance with Section 49e(1);
    - 2c. at least one of the persons in the group is from the insurance sector and at least one of them is from the banking sector or from the investment services sector;
    - 2d. the consolidated or aggregate activities of persons in a group in the insurance sector and the consolidated or aggregate activities of persons in a group in the banking and investment services sectors are significant according to Section 49e(2) and (4); or
  3. a subgroup of another financial conglomerate, which meets the conditions set out in point 1 or point 2;
- (b) 'financial sector' means a sector composed of one or more of the following legal entities:
1. a bank or other financial institution under Section 5(ab), or an auxiliary banking services undertaking; these entities constitute the banking sector;
  2. an insurance or reinsurance undertaking,<sup>45a</sup> or an insurance holding company under other legislation;<sup>45ae</sup> these constitute the insurance sector;
  3. an investment firm or other legal person as defined in point 1, these form the investment services sector;
- (c) 'group' means, for the purposes of this Division of this Act, a group of persons linked to each other by a control relationship as defined in point (d), including a subgroup;
- (d) 'control' means a relationship where:
1. one person controls another person;
  2. one person has a participating interest in another person; or
  3. persons are interlinked in a relationship involving influence over management which is comparable to influence corresponding to a participation, or by the fact that two or more persons have as members of their statutory body or supervisory board mostly the same persons.

### Section 49c

(1) Národná banka Slovenska shall exercise supplementary supervision where:

- (a) a financial conglomerate is controlled by a bank;

- (b) a financial conglomerate is controlled by a mixed financial holding company which is the parent undertaking of a bank and the financial conglomerate comprises no other regulated persons;
- (c) the parent undertaking of a bank is a mixed financial holding company, and the financial conglomerate includes at least two regulated persons established in a Member State and the most significant financial sector represented in the financial conglomerate is the banking sector;
- (d) a financial conglomerate is controlled by more than one mixed financial holding companies established in various Member States, in each of which a regulated person is established, while the regulated person with the largest amount of total assets within the financial conglomerate is a bank or the most significant financial sector represented in the financial conglomerate is the banking sector; if the banking sector also includes a foreign bank established in a Member State, on the basis of an agreement concluded between Národná banka Slovenska and the competent supervisory authority of that Member State;
- (e) a financial conglomerate is controlled by a mixed financial holding company established in the Slovak Republic, which is the parent undertaking of more than one regulated person established in other Member States, and none of these regulated persons has been authorised in the Slovak Republic and the most significant financial sector represented in the financial conglomerate is the banking sector;
- (f) a financial conglomerate is not controlled by a parent undertaking or is controlled in a way other than specified in points (a) to (e), if the financial conglomerate's most important financial sector is the banking sector and the regulated person with the largest amount of total assets in this sector is a bank.

(2) Národná banka Slovenska may, on the basis of an agreement with the Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate and after consultation with the person controlling the relevant financial conglomerate, undertake the exercise of supplementary supervision even in cases that are not stated in paragraph 1, if appropriate in terms of the goals of supplementary supervision.

(3) Národná banka Slovenska may, on the basis of an agreement with the Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate and after consultation with the person controlling the relevant financial conglomerate, leave the exercise of supplementary supervision in cases stated in paragraph 1 to the competent supervisory authority of the Member State concerned, if appropriate in terms of the goals of supplementary supervision.

#### **Section 49d**

(1) Národná banka Slovenska shall determine, according to the criteria laid down in Section 49e and in cooperation with the Member States' competent supervisory authorities that are responsible for the supervision of regulated persons belonging to a financial conglomerate, which financial conglomerates are subject to supplementary supervision.

(2) Národná banka Slovenska shall report to the Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate and to the Joint Committee of European Supervisory Authorities set up under other legislation,<sup>45ad</sup> any further proposal for the inclusion of a financial conglomerate in supplementary supervision.

(3) Národná banka Slovenska shall inform the person that controls a financial conglomerate under Section 49c(1) or the bank with the largest amount of total assets, if the most significant financial sector represented in the financial conglomerate is the banking sector, that the financial

conglomerate concerned is subject to supplementary supervision. Národná banka Slovenska shall report this fact to the competent supervisory authority of the Member State in which a mixed financial holding company is established, as well as to the Joint Committee of European Supervisory Authorities set up under other legislation.<sup>45ad</sup>

(4) Národná banka Slovenska shall notify the European Commission's Committee for Financial Conglomerates of the principles applied during the supplementary supervision of risk concentration under Section 49h and of intragroup transactions under Section 49i.

(5) Národná banka Slovenska shall publish on its website a link to the list of financial conglomerates that is available on the website of the Joint Committee of European Supervisory Authorities set up under other legislation.<sup>45ad</sup>

### **Section 49e**

(1) Activities are deemed to occur mainly in the financial sector if the ratio of the balance sheet total of the regulated and non-regulated financial sector entities in the group to the balance sheet total of the group as a whole exceeds 40%.

(2) Activities in different financial sectors are deemed to be significant if, for the given sector, the average of the following ratios exceeds 10%:

- (a) the ratio of the balance sheet total of that financial sector to the balance sheet total of the financial sector entities in the group; and
- (b) the ratio of minimum own funds requirements of the same financial sector to the total minimum own funds requirements of the financial sector entities in the group.

(3) The smallest financial sector in a financial conglomerate is the sector with the smallest average under paragraph 2 and the most important financial sector in a financial conglomerate is the sector with the highest average under paragraph 2. For the purposes of calculating the average under paragraph 2 and for the measurement of the smallest and the most important financial sectors, the banking sector and the investment services sector shall be considered together.

(4) Where a group fails to reach the average referred to in paragraph 2 but total assets in the smallest financial sector in the group amount to more than EUR 6,000,000,000, or where a group reaches the average referred to in paragraph 2 but total assets in the smallest financial sector in the group amount to less than EUR 6,000,000,000, Národná banka Slovenska may decide, upon agreement with the competent supervisory authorities of other Member States which are responsible for the supervision of regulated entities belonging to a financial conglomerate, not to regard the group as a financial conglomerate or that the provisions of Sections 49g to 49j do not apply where the exercise of supplementary supervision is inappropriate with respect to the objectives of supplementary supervision.

(5) Decision of Národná banka Slovenska taken in accordance with paragraph 4 shall be notified to the competent supervisory authorities of other Member States which are responsible for the supervision of regulated entities belonging to a financial conglomerate, and shall, save in exceptional circumstances, be made public.

(6) Národná banka Slovenska may, upon agreement with the competent supervisory authorities of other Member States which are responsible for the supervision of regulated entities belonging to a financial conglomerate, exclude one or more participations in the smallest financial sector if such participations are decisive for the identification of a financial conglomerate, and are

collectively of negligible interest with respect to the objectives of supplementary supervision. Národná banka Slovenska may, upon agreement with the competent supervisory authorities of other Member States which are responsible for the supervision of regulated entities belonging to a financial conglomerate, exclude a legal person when calculating the ratios referred to in paragraphs 1 to 3, where the person concerned:

- (a) is established in a country that is not a Member State and the law of that country does not enable any exchange of information for the purposes of supplementary supervision; when calculating the ratios referred to in paragraphs 1 to 3, however, it is not possible to exclude a legal person which has demonstrably moved its registered office from a Member State to a third country to avoid supervision;
- (b) is of negligible interest with respect to supplementary supervision;
- (c) is unsuitable for being included in a financial conglomerate with respect to the objectives of supplementary supervision.

(7) Národná banka Slovenska may, after consulting the competent supervisory authorities of other Member States which are responsible for the supervision of regulated entities belonging to a financial conglomerate, take into account the ratios referred to in paragraphs 1 and 2 for three successive years, in order to avoid a sudden change in the regime of supplementary supervision, or take no account of the ratios referred to in paragraphs 1 and 2 where significant changes occur in the structure of the group.

(8) Národná banka Slovenska may, in fully justified cases and after consulting the competent supervisory authorities of other Member States which are responsible for the supervision of regulated entities belonging to a financial conglomerate, replace or supplement the criterion based on total assets with one or more criteria based on the structure of revenues, total assets under management, or off-balance-sheet operations in the calculation of the ratios referred to in paragraphs 1 and 2, or add one or more criteria of special importance with respect to the objectives of supplementary supervision.

(9) If the ratio referred to in paragraph 1 decreases below 40% or if the average ratio referred to in paragraph 2 falls below 10% for financial conglomerates which are already subject to supplementary supervision, the ratio calculated under paragraph 1 shall be 35% for the next three years, and the average ratio calculated under paragraph 2 shall be 8%.

(10) If, in the case of a group which is already under supplementary supervision, total assets in the group's smallest financial sector fall below EUR 6,000,000,000, the amount to be used in calculations under paragraph 4 shall be EUR 5,000,000,000 for the next three years.

(11) Národná banka Slovenska may, with the consent of the competent supervisory authorities of other Member States which are responsible for the supervision of regulated entities belonging to a financial conglomerate and during the period set in paragraphs 7 to 10, stipulate that the lower ratios or the smaller amount given in paragraphs 7 to 10 are no longer valid for financial conglomerates which are subject to supplementary supervision.

(12) Total assets shall be calculated as the sum of total assets held by persons in a group on the basis of their individual annual financial statements. In the case of persons in which a holding has been acquired, the amount of the acquired holding shall be taken into account for the purposes of such calculations. Where consolidated financial statements are available, such statements shall be used instead of the individual financial statements.

(13) For the purposes of supplementary supervision, ‘minimum amount of own funds’ means such an amount of own funds that corresponds to at least the sum of the own funds requirements<sup>20a</sup> to be met by banks, at a constant level of risk.

(14) Requirements for the minimum amount of own funds of regulated entities other than banks, which are taken into account in the calculations under paragraphs 2 to 6, are stipulated in other legislation,<sup>45b</sup> which apply to the calculation of capital requirements, own funds and solvency requirements for the regulated entity concerned.

(15) Národná banka Slovenska shall evaluate each year the process of supplementary supervision for deviations and shall assess the quantitative indicators specified in paragraphs 1 to 14 and the risks faced by financial groups.

### Section 49f

(1) A bank that is part of a financial conglomerate shall meet the conditions laid down in Sections 49g to 49j, where:

- (a) it controls the financial conglomerate;
- (b) its parent undertaking is a mixed financial holding company located in a Member State;
- (c) it is linked with a legal person from another financial sector by a control relationship as defined in Section 49b(d), point 3; or
- (d) its parent undertaking is a regulated person or a mixed financial holding company established in a third country, where financial conglomerates are under supervision that is equivalent to supplementary supervision.

(2) Where a financial conglomerate is a subgroup of another financial conglomerate, which includes a bank satisfying one of the conditions set out in paragraph 1, the conditions stipulated in Sections 49g to 49j apply to the bank that is part of the financial conglomerate comprising a subgroup.

(3) A bank whose parent undertaking is a regulated person or a mixed financial holding company established in a third country, where financial conglomerates are not subject to supervision that is equivalent to supplementary supervision, shall comply with the conditions laid down in Sections 49g to 49j. If the conditions stipulated in Sections 49g to 49j cannot be met owing to the fact that the supervision of financial conglomerates by a third country is not equivalent to supplementary supervision, Národná banka Slovenska shall be entitled to stipulate that a bank that is part of a financial conglomerate shall supply Národná banka Slovenska with special statements, returns, and other reports on participation in such a financial conglomerate, and to restrict or prohibit the bank from conducting intragroup transactions that may affect compliance with the requirement to maintain an adequate amount of own funds at the level of the financial conglomerate.

(4) Národná banka Slovenska shall verify whether a financial conglomerate as defined paragraph 3 is under supervision that is equivalent to supplementary supervision, if it is so agreed with the supervisory authorities of the Member States in which the regulated persons constituting the financial conglomerate are established, at the request of the parent undertaking under paragraph 3, or at the request of the regulated person that is part of the financial conglomerate, or on its own initiative. Národná banka Slovenska shall discuss the issuance of a decision under paragraph 3 with the European Commission’s Committee for Financial Conglomerates and shall report the issuance of a decision under paragraph 3 to the Commission. If Národná banka Slovenska fails to reach an agreement with the competent authority of the Member State concerned in the matter mentioned in the first sentence, it shall proceed in accordance with other legislation.<sup>45c</sup>



(5) Where legal entities have a participating interest in one or several regulated persons or they exercise significant influence over regulated persons without capital participation other than influence pursuant to paragraphs 1 to 3, Národná banka Slovenska shall determine, in cooperation with other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate, whether and to what extent these regulated persons will be subject to supplementary supervision as if they were a financial conglomerate subject to supplementary supervision. In such cases, Národná banka Slovenska shall inform the Commission and the other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in the financial conglomerate. For supplementary supervision to be conducted, at least one of the legal entities mentioned in the first sentence must be a bank and the conditions stipulated in Section 49b(a), points 1c and 1d, must be satisfied; this is necessary for the goals of supplementary supervision to be fulfilled.

### **Section 49g**

(1) Banks shall, in accordance with Section 49f(1), ensure that a sufficient amount of own funds is maintained at the level of financial conglomerates and that rules are adopted at the level of financial conglomerates to this end. The own funds of a financial conglomerate are regarded as sufficient if the difference between the own funds of the financial conglomerate and the sum of the minimum amounts of own funds of persons in the financial conglomerate is zero or a positive figure.

(2) Banks that are part of a financial conglomerate shall calculate the adequate amount of own funds using one of the methods stipulated in legislation of general application to be issued by Národná banka Slovenska in accordance with paragraph 9.

(3) Národná banka Slovenska shall be entitled, after consultation with other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate, to notify a regulated person or a mixed financial holding company, on its own initiative or at the request of the regulated person or mixed financial holding company concerned under paragraph 4, as to which of the methods stipulated in legislation of general application under paragraph 9 is to be applied for calculating the adequate amount of own funds.

(4) Banks controlling a financial conglomerate shall supply Národná banka Slovenska, semi-annually or at the request of Národná banka Slovenska, with data on the amount of own funds and the amount of own funds at the level of the financial conglomerate needed for meeting the requirement to maintain a sufficient amount of own funds in a financial conglomerate that is subject to supplementary supervision. If a financial conglomerate is not controlled by a bank, data as mentioned in the first sentence shall be supplied to Národná banka Slovenska by a mixed financial holding company or by a regulated person selected by Národná banka Slovenska after consultation with the regulated persons or mixed financial holding companies that constitute the financial conglomerate.

(5) Requirements for own funds shall be taken into account in the calculation of the amount of own funds at the level of financial conglomerates only in respect of persons referred to in Section 49b, point (b).

(6) Národná banka Slovenska shall be entitled to decide to omit, from the calculation of the amount of own funds at the level of a financial conglomerate that is subject to supplementary supervision, a person:

- (a) established in a third country, the law of which does not enable the exchange of information for the purposes of supplementary supervision;
- (b) of negligible importance for the purposes of supplementary supervision of regulated persons

within a financial conglomerate; this does not apply where more legal entities are to be omitted from the calculation, whose total share in the financial conglomerate is significant under Section 49e(2) and (4);

- (c) whose inclusion in the calculation would be inappropriate or inadequate in terms of the goals of supplementary supervision.

(7) Národná banka Slovenska shall discuss the omission of a person referred to in paragraph 6(c) with the competent supervisory authority that is responsible for the exercise of supplementary supervision in the relevant Member State.

(8) Paragraph 6 is without prejudice to the obligation of the persons concerned to supply information for the purposes of supplementary supervision, or to the authorisation of supervisory bodies to provide information on these persons for the purposes of supplementary supervision or supervision of financial conglomerates in another Member State.

(9) For the purpose of calculating the adequate amount of own funds for financial conglomerates, Národná banka Slovenska shall, in a decree to be promulgated in the Collection of Laws, stipulate:

- (a) the source of own funds for financial conglomerates, the method of their calculation, including the own funds of a mixed financial holding company;
- (b) the minimum amount of own funds for financial conglomerates and the method of its calculation;
- (c) the methods of calculating the adequate amount of own funds for financial conglomerates.

### **Section 49h**

(1) Banks controlling a financial conglomerate shall supply Národná banka Slovenska, semi-annually or at the request of Národná banka Slovenska, with data on risk concentration in the financial conglomerate. If a financial conglomerate is not controlled by a bank, the data mentioned in the first sentence shall be supplied to Národná banka Slovenska by a mixed financial holding company or by a regulated person selected by Národná banka Slovenska after consultation with the regulated persons or mixed financial holding companies that constitute the financial conglomerate.

(2) For the purposes of supplementary supervision, ‘risk concentration within a financial conglomerate’ means any activity performed by persons belonging to the financial conglomerate, which may cause a loss large enough to threaten the solvency, safety, and financial position of the regulated persons included in the financial conglomerate; such risk concentration may be caused by credit risk, investment risk, insurance risk, market risk, liquidity risk, client risk, operational risk, other risks, or a combination of these risks.

(3) Where a financial conglomerate is controlled by another regulated person, risk concentration within the financial conglomerate shall be governed, as appropriate, by the provisions of other legislation.<sup>45b</sup>

(4) Where a financial conglomerate is controlled by a mixed financial holding company and where the most significant financial sector represented in the financial conglomerate is the banking sector, risk concentration in the banking sector and in the mixed financial holding company shall be governed by the provisions of Section 33.

(5) For the purpose of determining the degree of risk concentration, Národná banka Slovenska shall, in a decree to be promulgated in the Collection of Laws, provide details about:

- (a) the large exposures of financial conglomerates and the method of their calculation;

- (b) the large exposures of the banking sector and the method of their calculation;
- (c) the large exposures of mixed financial holding companies and the method of their calculation;
- (d) risk concentration in financial conglomerates and the method of its calculation.

### **Section 49i**

(1) Banks controlling a financial conglomerate shall supply Národná banka Slovenska, semi-annually or at the request of Národná banka Slovenska, with data on significant intragroup transactions conducted by the financial conglomerate. If a financial conglomerate is not controlled by a bank, the data mentioned in the first sentence shall be supplied to Národná banka Slovenska by a mixed financial holding company or by a regulated person selected by Národná banka Slovenska after consultation with the regulated persons or mixed financial holding companies that constitute the financial conglomerate.

(2) For the purposes of supplementary supervision, 'intragroup transaction' means any transaction in which regulated persons constituting a financial conglomerate rely, either directly or indirectly, upon other persons from the same group or upon any natural or legal person they control, for the discharge of an obligation, regardless of whether or not contractual, and whether or not for payment.

(3) For the purposes of supplementary supervision, 'significant intragroup transaction' means an intragroup transaction, amounting to at least 5% of the amount of own funds held by a financial conglomerate, determined pursuant to Section 49g(9)(a).

(4) Significant intragroup transactions with persons in a special relationship shall be governed by the provisions of Section 35.

(5) If a financial conglomerate is controlled by a mixed financial holding company and if the most significant financial sector represented in the financial conglomerate is the banking sector, intragroup transactions conducted by the banking sector and by mixed financial holding companies shall be governed by the provisions of Section 44(4).

### **Section 49j**

(1) A bank that is part of a financial conglomerate shall create a risk management system and an internal control system, including bookkeeping and control procedures for the purpose of monitoring and observing the provisions of this Act at the level of the financial conglomerate.

(2) For the purposes of supplementary supervision, a risk management system shall comprise:

- (a) an appropriate management system ensuring the approval and regular inspection of a financial conglomerate's business strategy in relation to the risks arising from the activities of the financial conglomerate;
- (b) procedures for ensuring a sufficient amount of own funds, which include the possible impact of the business strategy on a bank's risk profile and own funds;
- (c) procedures for monitoring the risks and measures designed to ensure the monitoring and management of risks within a financial conglomerate.
- (d) measures designed to prepare and develop appropriate plans and procedures for recovery and bankruptcy prevention; these measures are to be updated on a regular basis.

(3) For the purposes of supplementary supervision, an internal control system shall comprise:

- (a) procedures for identifying and measuring the risks affecting the observance of provisions concerning the amount of own funds to be maintained by a financial conglomerate and methods for evaluating their functioning and effectiveness;
- (b) procedures for evaluating the bookkeeping system and the supply of information for the purposes of identifying, measuring, monitoring, and managing intragroup transactions and the concentration of risks.

(4) A bank that is part of a financial conglomerate shall, at the level of the financial conglomerate:

- (a) supply Národná banka Slovenska, on an annual basis, with information on its legal form, management and organisation structure, including the list of persons it regulates, non-regulated subsidiaries, and major branches;
- (b) publish, on its website, information about its legal form, management and organisation structure.

(5) If Národná banka Slovenska coordinates the exercise of supplementary supervisions under Section 49k(2), it shall report information pursuant to paragraph 4 and Section 491(3)(a) to the Joint Committee of European Supervisory Authorities set up under other legislation.<sup>45ad</sup>

### **Section 49k**

(1) In exercising supplementary supervision, Národná banka Slovenska shall:

- (a) provide for the coordination of the collection and dissemination of information needed for monitoring the activities of financial conglomerates and for the provision of vital information for the exercise of supplementary supervision in individual financial sectors to other states' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate;
- (b) gather information for evaluating the financial situation of financial conglomerates for the purposes of supplementary supervision;
- (c) monitor the observance of provisions concerning the sufficient amount of own funds, risk concentration, and intragroup transactions;
- (d) monitor the structure of financial conglomerates, their organisation, and the functioning of their internal control system in accordance with Section 49j;
- (e) plan and coordinate the exercise of supplementary supervision under any conditions in cooperation with other states' competent supervisory authorities that are responsible for the supervision of regulated entities included in a financial conglomerate;
- (f) perform other tasks in connection with the exercise of supplementary supervision.

(2) Národná banka Slovenska shall coordinate, in cooperation with other states' competent supervisory authorities that are responsible for the supervision of regulated entities included in a financial conglomerate, the exercise of supplementary supervision, and shall stipulate the forms of cooperation in implementing the provisions of Section 49d, Section 49e, Section 49f(3) and (5), Section 49g, Section 49l(2), and Section 51a.

(3) Information needed for the exercise of supplementary supervision, which has already been provided to another country's competent supervisory authority that is responsible for the supervision of regulated persons included in a financial conglomerate, shall be obtained from that authority at the request of Národná banka Slovenska. If the said information cannot be obtained according to the first sentence, Národná banka Slovenska shall be entitled to obtain it directly from the persons included in the financial conglomerate, listed in Section 49g(2).

(4) For the purpose of coordinating the cooperation between Národná banka Slovenska and other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate, the exercise of supplementary supervision shall be subject, where appropriate, to the provisions of Section 48(9) to (11).

### Section 49I

(1) In exercising supplementary supervision, Národná banka Slovenska shall cooperate with other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate, even if supplementary supervision is exercised by the competent supervisory authority of a Member State, at least in the scope specified in paragraph 3.

(2) Národná banka Slovenska shall, at the request of another Member State's competent supervisory authority that is responsible for the supervision of regulated entities included in a financial conglomerate, provide information for the supervision of regulated entities that are part of a financial conglomerate or for the supervision of financial conglomerates, at least in the scope specified in paragraph 3. Národná banka Slovenska shall also provide such information on its own initiative if the information is deemed to be important for the supervision of financial conglomerates. Národná banka Slovenska shall be entitled to request, from other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate, information for the purposes of supplementary supervision, at least in the scope specified in paragraph 3, and shall also be entitled to exchange information needed for the supervision of financial conglomerates with foreign central banks, the European System of Central Banks, the European Central Bank, and under other legislation,<sup>45d</sup> with the European Systemic Risk Board.

(3) Cooperation and the exchange of information under paragraphs 1 and 2 concern mainly:

- (a) the legal form, management and organisational structure of a financial conglomerate, including all regulated and non-regulated persons, non-regulated subsidiaries and significant branches belonging to that financial conglomerate, and persons with a qualifying holding in the entity controlling the financial conglomerate, and other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in the financial conglomerate;
- (b) the strategy and specialisation of a financial conglomerate;
- (c) the financial situation of a financial conglomerate, mainly the amount of own funds, intragroup transactions, risk concentration, and the results of operations;
- (d) shareholders with a qualifying holding in persons that are part of a financial conglomerate and the statutory body members of that financial conglomerate;
- (e) the organisation, risk management and internal control systems of a financial conglomerate;
- (f) procedures for collecting information from persons that are part of a financial conglomerate, and for verifying such information;
- (g) unfavourable developments in regulated person or other persons within a financial conglomerate, which may have a serious negative impact on a bank;
- (h) serious penalties and extraordinary measures adopted by Národná banka Slovenska and the other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate.

(4) Národná banka Slovenska shall discuss, with the other Member States' competent supervisory authorities that are responsible for the supervision of regulated persons included in a financial conglomerate, the following matters:

- (a) the issuance of a decision on prior approval under Section 28(1)(a) and (b) and Section 9(4), where changes in the structure of shareholders or changes in the bodies of a bank would affect the exercise of supplementary supervision;
- (b) the imposition of penalties or the adoption of measures against regulated persons in a financial conglomerate, which may also have an impact on regulated persons that are subject to supplementary supervision by another Member State's competent supervisory authority that is responsible for the supervision of regulated persons included in a financial conglomerate.

(5) *Národná banka Slovenska* shall not conduct negotiations under paragraph 4 where such negotiations may threaten the adoption of decisions within the prescribed time limit or where the imposition of penalties and measures cannot be postponed. In such cases, *Národná banka Slovenska* shall, without undue delay, inform the relevant Member States' supervisory authorities that are responsible for the supervision of regulated persons belonging to a financial conglomerate.

(6) In exercising supplementary supervision, *Národná banka Slovenska* shall be entitled to call upon a Member State's competent supervisory authority that is responsible for the supervision of regulated persons included in a financial conglomerate, in the Member State in which the parent undertaking is established, to instruct the parent undertaking to provide information for the performance of tasks by *Národná banka Slovenska* under Section 49k and to deliver this information to *Národná banka Slovenska*.

(7) The provisions of paragraphs (1) to (6) also apply to cooperation between *Národná banka Slovenska* and the supervisory authorities of countries with which the European Union has signed a cooperation agreement for the supervision of financial conglomerates.

(8) The provisions of paragraph 7 are without prejudice to the right to conclude an agreement on the terms and conditions of supervision over financial conglomerates and on the mutual exchange of information with the competent supervisory authority of another country that is not a Member State, unless such agreement contradicts the rules of supplementary supervision.

#### **Section 49m**

(1) *Národná banka Slovenska* shall verify, at the request of another Member State's competent supervisory authority that is responsible for the supervision of regulated persons included in a financial conglomerate, any information used for the supervision of a financial conglomerate about a person that belongs to that financial conglomerate and whose registered office is in the territory of the Slovak Republic, or shall have this information verified by other authorised persons. The persons designated by the Member State's competent supervisory authority shall be entitled to participate in the verification by *Národná banka Slovenska* or to verify the information on their own with the consent of *Národná banka Slovenska*.

(2) *Národná banka Slovenska* shall be entitled to request another Member State's competent supervisory authority that is responsible for the supervision of regulated persons included in a financial conglomerate, to verify the information used for the supervision of a financial conglomerate about a person that belongs to that financial conglomerate and whose registered office is in the territory of that Member State, or to have the information verified by other designated persons. Persons designated by *Národná banka Slovenska* shall be entitled to participate in the verification conducted by the competent supervisory authority of the Member State concerned, or to verify the information on their own with the consent of the competent supervisory authority.

#### **Section 49n**

Persons that are part of a financial conglomerate shall exchange, for the purposes of supplementary supervision, any information they need for the discharge of obligations under Sections 49g to 49j.

### **Section 49o**

(1) Mixed financial holding companies as referred to in Section 49c shall prepare and submit to Národná banka Slovenska statements, returns, and other reports containing data needed for the exercise of supplementary supervision under Section 49g(2), Section 49h(1), and Section 49i(1) in a specified form or manner, at a specified time; their structure, scope, contents, form, categorisation, time limits, manner, method and place of submission, including the methodology of preparation shall be stipulated in a decree<sup>23</sup> issued by Národná banka Slovenska and promulgated in the Collection of Laws.

(2) Data and other information contained in the statements, returns, and other reports must be comprehensible, well-arranged, and transparent; they must give a true picture of the reported facts, and must be submitted in due time. If the submitted statements, returns, and other reports fail to correspond to the prescribed methodology or if there are justified doubts about their correctness or completeness, the mixed financial holding company shall submit to Národná banka Slovenska new data and give an explanation within the time limit set by Národná banka Slovenska.

## **DIVISION TEN CORRECTIVE MEASURES AND FINES**

### **Section 50**

(1) Where Národná banka Slovenska finds any shortcomings in the operations of a bank or a foreign bank branch consisting in a failure to comply with the terms and conditions stipulated in its banking authorisation or in a decision on prior approval, or with the requirements and obligations specified in other decisions of Národná banka Slovenska imposed on a bank or a foreign bank branch, a failure to meet the conditions stipulated in Section 7(2), (4) and (6), and Section 8(2), (4) and (6), or a violation or circumvention of other provisions of this Act, legally binding acts of the European Union pertaining to banking activities, other acts,<sup>46</sup> or other legislation of general application governing the conduct of banking operations, Národná banka Slovenska may, depending on the seriousness, scope, duration, consequences, and nature of detected shortcomings:

- (a) require a bank or a foreign bank branch to adopt recovery measures and set a deadline for their implementation, including adjustment to those measures regarding scope and deadline;
- (b) require a bank or a foreign bank branch to submit special statements, returns, and reports, including reports on own funds, liquidity and leverage, where such request for this specific information or its more frequent reporting is appropriate and proportionate with regard to the purpose for which the information is required and the information requested is not duplicative to other required information;
- (c) require a bank or a foreign bank branch to terminate an unauthorised activity;
- (d) impose on a bank or a foreign bank branch a fine of EUR 3,300 to EUR 332,000, or, in the event of a recurrent or grave default, a fine of up to 10% of the total net annual turnover for the previous calendar year including gross income comprising interest income and similar income, positive income from shares and other variable- or fixed-yield securities, and income from commissions and fees in accordance with other legislation;<sup>48aaaa</sup> if a bank is a subsidiary, its total net annual

- turnover for the previous calendar year is the gross income from the parent undertaking's consolidated financial statements;
- (e) limit or suspend the conduct of certain banking activities or certain types of transactions for a bank or a foreign bank branch;
  - (f) withdraw the banking authorisation of a bank or a foreign bank branch for certain banking activities;
  - (g) require a bank or a foreign bank branch to correct its accounting books or other records according to the findings of Národná banka Slovenska or an auditor;
  - (h) require the release of a correction of incomplete, incorrect, or untrue information that a bank or a foreign bank branch published in accordance with the disclosure requirement stipulated by law;
  - (i) require the settlement of a loss from business operations using share capital, subsequent to the use of retained earnings from previous years, funds created from profits, and capital funds to cover the loss;
  - (j) place a bank or a foreign bank branch under receivership for reasons stated in Section 53;
  - (k) withdraw the banking authorisation of a bank or a foreign bank branch for reasons stated in Section 63;
  - (l) require a bank or a foreign bank branch to adopt measures to improve its risk management system;
  - (m) impose on a bank a specific own funds requirement under Section 29b;
  - (n) require a bank to apply, for the purpose of maintaining its own funds at a level corresponding to the capital requirement, special procedures taking into account the impairment of its assets and expected losses on off-balance sheet items where the value of assets or expected losses on off-balance sheet items calculated by the bank do not correspond to the objective facts;
  - (o) require a bank or a foreign bank branch to reduce the level of significant risks it incurs during the course of its activities, including outsourced activities;
  - (p) require a bank or a foreign bank branch to maintain its assets in the prescribed range and in the prescribed amount;
  - (r) require a bank to restrict the provision of flexible remuneration to persons mentioned in Section 23a in an amount determined as a percentage of the total remuneration paid to persons mentioned in Section 23a, at least for one calendar year, for the purpose of maintaining its own funds at a level specified in other legislation;<sup>46a</sup>
  - (s) require a bank to use its profits to maintain its own funds at a level exceeding the capital requirement stipulated by this Act in Section 29(4);
  - (t) require a bank to release a public statement as to which person is responsible for the deficiency in its activities, as well as the nature of the deficiency;
  - (u) require a bank to discontinue, or refrain from, any activity that is not compliant with this Act or with other legislation;
  - (v) impose on a bank additional liquidity requirements, including restrictions on maturity mismatches between assets and liabilities;
  - (w) require a bank to transfer a covered bond programme or a part thereof to a third party, which must be a bank or several banks, in a way that ensures that the covered bond programme is transferred in full;
  - (x) require a bank or a foreign bank branch to disclose additional information specified by Národná banka Slovenska.

(2) Národná banka Slovenska may impose a fine upon a member of a bank's statutory body or supervisory board, the head of a foreign bank branch<sup>22</sup> or their deputy, an authorised representative, a manager of a bank or a foreign bank branch,<sup>22</sup> a receiver, a covered bond programme administrator, a member of the statutory body, supervisory body or a manager of a financial holding company under Section 44(3) or a mixed financial holding company under Section 49c(1)(b) to (e), the official receiver or their deputy, for any violation of the provisions of this Act, other acts<sup>46</sup> or other legislation



of general application governing the conduct of banking activities on an individual basis, on a consolidated basis, and within a financial conglomerate, the bank's articles of association, and other internal regulations, or for any breach of conditions or obligations imposed by a decision issued by Národná banka Slovenska, which fine may, depending on the gravity of guilt and nature of violation, go up to twelve-times the person's monthly remuneration for the past year received from the bank or foreign bank branch or from members of a consolidated group or members of a financial conglomerate to which the bank or foreign bank branch belongs; a manager may be charged a fine of up to 50% of their total remuneration for the past year received from a bank or a foreign bank branch or from members of a consolidated or sub-consolidated group to which the bank or the foreign bank branch belongs. If the person concerned received income from a bank or a foreign bank branch, from members of a consolidated or sub-consolidated group, or from members of a financial conglomerate to which the bank or foreign bank branch belongs, only for part of the past year, the monthly average will be calculated from the person's total remuneration for the relevant part of the year. A bank, foreign bank, financial holding company as referred to in Section 44(3), or a mixed financial holding company as referred to in Section 49c(1)(b) shall dismiss without delay from their office persons who cease to be of good repute as a result of receiving a final fine as referred to in Section 7(15)(e). Národná banka Slovenska may, for any of the infringements mentioned in the first sentence, prohibit these persons temporarily from holding any office in a bank or in a foreign bank branch or, in the case of a material infringement, impose a fine of up to EUR 5,000,000.

(3) The recovery measures of a bank or of a foreign bank branch means any of the following actions:

- (a) submission of a binding recovery programme that must include:
  - 1. a plan for the maintenance of own funds by the bank in regard to the capital requirements;
  - 2. a plan projecting the current and anticipated trends in the economic situation of the bank or foreign bank branch, at least including balance sheets, profit and loss accounts, the budget, a strategic business plan, and an analysis of profitability in achieving the programme objectives;
  - 3. other information that Národná banka Slovenska deems necessary;
- (b) submission of an analysis of deficiencies in the bank's activities and a binding plan, including a schedule for the adoption of measures to comply with the provisions of this Act, legally binding acts of the European Union pertaining to the conduct of banking activities, other acts,<sup>46</sup> and other legislation of general application governing the conduct of banking activities;
- (c) limitation or suspension of the payment of dividends,<sup>47</sup> bonuses,<sup>48</sup> and other shares in profit, remuneration and non-monetary compensation to shareholders, members of the statutory body, members of the supervisory board, and employees;
- (d) limitation or suspension of salary increases for members of the statutory body, members of the supervisory board, and all employees of the bank or foreign bank branch;
- (e) introduction of daily monitoring for the financial position of the bank or foreign bank branch;
- (f) limitation or suspension of the expansion of new transactions made by the bank or foreign bank branch; for such transactions, prior approval is required from Národná banka Slovenska;
- (g) adoption of measures to improve the risk management system;
- (h) adoption of measures to prevent the transfer of risk in securitisation.

(4) Národná banka Slovenska shall require a bank to adopt recovery measures where the bank fails to meet its obligations laid down in Sections 23, 27(7) and 30 or where Národná banka Slovenska finds latent support for securitisation on more than one occasion.

(5) The statutory body of a bank that fails to meet the obligations laid down in Sections 23, 27(7) or 30 shall submit to Národná banka Slovenska a binding recovery programme no later than 30 days after becoming aware of this fact. The binding recovery programme is to be approved by the

bank's statutory body and supervisory board. Národná banka Slovenska shall approve or reject the binding recovery programme within ten days of the date of receipt.

(6) When the reasons cease for the use of the measure stipulated in paragraph 1(e), Národná banka Slovenska shall give a written notice to the bank or foreign bank branch concerned.

(7) For a breach of the provisions of Section 2(16), second sentence, Section 3, Section 4(1), and Section 28, Národná banka Slovenska may impose a measure to eliminate and rectify the unlawful situation, as well as a fine of:

- (a) up to 10% of the total net annual turnover, including the gross income consisting of interest receivables and similar income, positive yields on shares and other variable or fixed-yield securities, and commissions and fees receivables in accordance with other legislation<sup>48aaa</sup> of the bank in the preceding calendar year where a legal person is involved; where the legal person is a subsidiary, the total net income shall be based on the gross income resulting from the consolidated account of the parent undertaking in the preceding calendar year; where it is impossible to determine the fine amount using the total net annual turnover, Národná banka Slovenska is entitled to impose a sanction in the amount from EUR 500 to EUR 5,000,000;
- (b) up to EUR 5,000,000 where a natural person is involved; or
- (c) up to twice the amount of the benefit derived from the breach where that benefit can be determined.

(8) A fine mentioned in paragraphs 1, 2, 7 or 23 is without prejudice to liability as defined in other legislation.

(9) Fines and corrective measures as referred to in paragraph 1 may be imposed concurrently and repeatedly. A fine as referred to in paragraphs 1, 2 or 7 shall be payable within 30 days of the effective date of the decision imposing the fine. Fines imposed with finality shall be administered by the Government Audit Office,<sup>48aaa</sup> for this purpose, Národná banka Slovenska shall send the Government Audit Office a copy of its valid decision imposing a fine. Imposed fines shall bring in revenues for the state budget of the Slovak Republic.

(10) Fines referred to in paragraph 1(d), paragraphs 2 and 7, Section 51(1), Section 51a(1), or Section 82(2), or corrective measures may be imposed within three years from the detection of shortcomings, but no later than within ten years of their occurrence. The limitation periods mentioned in the first sentence shall be interrupted when an event causing such interruption under another act<sup>48aa</sup> occurs, and the new limitation period will begin to lapse from the time of interruption. Shortcomings in the operation of a bank or a foreign bank branch or other person over which supervision is exercised under this Act, specified in an on-site inspection protocol, shall be considered detected from the date of expiry of the on-site inspection under another act.<sup>48a</sup>

(11) Národná banka Slovenska shall be entitled, even outside corrective measure or fine proceedings, to require a bank or a foreign bank branch to submit separate statements, reports, and disclosures, and to discuss shortcomings in the operation of the bank or foreign bank branch with the members of the bank's statutory body and supervisory board, the head of the foreign bank branch, managers, and the chief internal control/audit officer, who shall give Národná banka Slovenska any requested assistance.

(12) Národná banka Slovenska shall be entitled, even outside corrective measure or fine proceedings, to impose on a bank specific requirements related to liquidity, including limitations on maturity mismatch between assets and liabilities, where it finds that the liquidity risk to which the bank is or may be exposed are not sufficiently covered.

(13) Národná banka Slovenska shall be entitled to require a bank or a foreign bank branch to maintain a specified scope of assets in the prescribed amount also when this is necessary owing to objective circumstances related to financial markets, the effect of which may impair the stability of the financial market or disrupt its credibility.

(14) Where a bank or a foreign bank branch reports<sup>48b</sup> to Národná banka Slovenska that the stress-test results materially exceed the own funds requirement for the correlation trading portfolio, Národná banka Slovenska may impose additional own funds requirements for the coverage of specific risks to the correlation trading portfolio.

(15) Národná banka Slovenska shall publish on its official website, for a period of at least five years,<sup>48c</sup> information on the corrective measures and penalties imposed under paragraphs 1, 2, 7 and Sections 51(1), 51a(1) and (2), and 52(1), against which there is no appeal, without undue delay after the bank, foreign bank branch, mixed financial holding company or person concerned is informed of those corrective measure or penalties.

(16) Národná banka Slovenska shall publish information in accordance with paragraph 15 mainly on the type of the corrective measure or fine imposed; the nature of the breach; the business name, registered office, and identification number of the bank, foreign bank branch or mixed financial holding company, or the forename and surname, permanent address, or business name, registered office, and identification number of the person on whom a corrective measure or fine has been imposed. Information pursuant to the first sentence shall be published in accordance with other legislation.<sup>48d</sup> Personal data forming part of the information under the first sentence are published by Národná banka Slovenska on its website for the time strictly necessary having regard to the limitation periods under paragraph 10, but not more than 10 years.

(17) Information under paragraph 16 shall be published anonymously where:

- (a) the person concerned is a natural person, since personal data disclosure is unlawful;
- (b) there is a justified risk to financial market stability, or an examination is underway under other legislation;<sup>48e</sup>
- (c) there is a justified risk that disproportionate damage may be caused to the bank or natural person involved.

(18) Národná banka Slovenska may impose the obligation referred to in paragraph 1(d) even if the bank's financial position has worsened substantially, if the entity concerned has seriously violated the law or the bank's articles of association or failed to fulfil any of its tasks.

(19) Immediately after issuing a decision under this Section, adopting a crisis prevention measure<sup>48f</sup> or after the delivery of the notification,<sup>48g</sup> Národná banka Slovenska shall send the decision or notification to the Resolution Council. The Resolution Council may require the bank concerned to enter into negotiations with potential purchasers of the bank, or of any part thereof, taking into consideration the conditions stipulated in other legislation.<sup>48h</sup>

(20) Národná banka Slovenska shall be entitled to verify that the bank's statutory body members and supervisory board members meet the requirements set out in Section 7(14) and (15), Section 24 and Section 25(1) to (3), (8) to (11) and (14) to (16), where it has reasonable grounds to suspect that the bank is in breach of, breached or attempted to breach the provisions of other legislation,<sup>21a</sup> or there is an elevated risk of breaching these provisions. Where a statutory body member or supervisory board member does not meet the requirements referred to in the first sentence, Národná banka Slovenska shall be entitled to require such member to be replaced.

(21) Where Národná banka Slovenska identifies deficiencies in the activities of a parent institution, parent financial holding company or parent mixed financial holding company consisting of non-compliance with the conditions specified in an approval granted in accordance with Section 20a, conditions or requirements laid down in other decisions of Národná banka Slovenska imposed on the parent institution, parent financial holding company or parent mixed financial holding companies in accordance with Section 20a, or non-compliance with or circumvention of the provisions of Section 20a, other provisions of this Act and of other legislation<sup>48i</sup> on a consolidated or sub-consolidated basis, it may, depending on the severity, extent, duration, consequences and nature of the identified deficiencies apply *mutatis mutandis* the measures referred to in paragraphs 1, 2, 7, 9, 10 and 15 to 17.

(22) A duplicative information means any additional information that may be produced by Národná banka Slovenska or that has already been otherwise reported to it by a bank or a foreign bank branch in a different format or level of granularity and that different format or granularity does not prevent Národná banka Slovenska from producing information of the same quality and reliability as that produced on the basis of the additional information that would be otherwise reported.

(23) In the case of an investment firm meeting the conditions under Section 7b(1) which has not applied to Národná banka Slovenska for banking authorisation under Section 7 or did not apply to Národná banka Slovenska for banking authorisation under Section 7 within the set time limit, Národná banka Slovenska may impose measures under paragraph 1(c) and (d) having regard for the severity, extent, duration, consequences and nature of the detected shortcomings.

(24) Národná banka Slovenska may withdraw prior approval under Section 28(1)(f) for a bank that is an issuer of covered bonds in the following cases:

- (a) the bank does not meet or abide by the conditions under which prior approval was issued, or
- (b) the bank commits a severe breach or repeated breaches of its obligations laid down by this Act or other legislation of general application relevant to the covered bond programme.

(25) On delivery of a decision of Národná banka Slovenska withdrawing prior approval under paragraph 24 or Section 28(5) last sentence, the bank must begin, without delay, the process for transferring the covered bond programme using the procedure under Section 82(1) and (2). The bank acts as the bank that is the issuer of the covered bonds until it transfers the whole covered bond programme to a third party, which can only be one bank or several banks.

(26) Before Národná banka Slovenska adopts a decision imposing a corrective measure or a fine under paragraph 1(c), (d), (t), (u), paragraphs 2, 7 and 24, or before adopting a decision withdrawing prior approval under Section 28(5) last sentence in connection with the issuing and administration of covered bonds, it shall give the affected person an opportunity to respond; this does not apply if urgent action is needed to prevent significant losses being suffered by third parties or significant disruption of the financial system, in which case Národná banka Slovenska shall give the affected person an opportunity to respond as soon as possible after the imposition of a corrective measure or fine and, if necessary, Národná banka Slovenska shall conduct an investigation of the corrective measure or fine.

## Section 50a

Národná banka Slovenska shall preserve the anonymity of an employee, manager, statutory body or supervisory board member of a bank, or the anonymity of an employee or manager of a

foreign bank branch, who provides Národná banka Slovenska with any information on shortcomings in the activities of the bank or foreign bank branch concerned in accordance with Section 50(1).

### Section 51

(1) Národná banka Slovenska may impose a fine on a legal person that is part of a consolidated group over which it exercises supervision on a consolidated basis, according to the seriousness, scope, duration, consequences, and nature of the revealed shortcomings, in the amount of EUR 3,300 to EUR 664,000, if the legal person:

- (a) does not allow an on-site inspection;
- (b) fails to supply the requested statements, returns, and other reports for the purposes of supervision on a consolidated basis;
- (c) provides incorrect, untrue, or incomplete statements, returns, and other reports, or fails to meet the deadlines set for their delivery; or
- (d) fails to comply with the duty stipulated in Section 47(1).

(2) The provisions of Section 50(7) to (9) and the first sentence of paragraph 10 apply to fines as mentioned in paragraph 1.

### Section 51a

(1) Národná banka Slovenska may impose a fine on a mixed financial holding company or a person included in a financial conglomerate over which Národná banka Slovenska exercises supplementary supervision, according to the seriousness, scope, duration, consequences, and nature of the revealed shortcomings, in the amount of EUR 3,300 to EUR 664,000, if the person concerned:

- (a) does not allow an on-site inspection;
- (b) fails to supply the requested statements, returns, and other reports for the purposes of supplementary supervision;
- (c) provides incorrect, untrue, or incomplete statements, returns, or other reports, or fails to meet the deadlines set for their delivery; or
- (d) fails to comply with the duties stipulated in Sections 49g to 49j.

(2) When the solvency of a financial conglomerate is at risk or the requirement to maintain a sufficient amount of own funds is not met in a financial conglomerate that is subject to supplementary supervision, Národná banka Slovenska shall, in relation to the mixed financial company, be entitled to:

- (a) impose measures designed to ensure the recovery of the financial conglomerate concerned in accordance with Section 50(3); or
- (b) restrict or suspend the conduct of certain intragroup transactions.

(3) If a financial conglomerate includes a person that is under the supervision of Národná banka Slovenska in accordance with Section 6(1), Národná banka Slovenska shall also be entitled to impose a fine under Section 50 on the basis of a notice from the relevant Member State's supervisory authority responsible for supervising the financial conglomerate in which the person mentioned in Section 6(1) is included.

(4) If Národná banka Slovenska imposes a fine under Section 6(1) on a person included in a financial conglomerate that is subject to supplementary supervision by another Member State's competent supervisory authority and if the imposition of such fine has some significance for the exercise of supplementary supervision, Národná banka Slovenska shall report this fact to the relevant supervisory authority of the Member State concerned.

## **Section 52**

(1) Národná banka Slovenska may suspend the exercise of the right to attend and vote at a bank's general meeting and the right to request the convening of an extraordinary meeting for a person who has performed a deed in violation of Section 28(1)(a), or who has acquired prior approval under Section 28(1)(a), on the basis of a misstatement. The exercise of these rights may also be suspended by Národná banka Slovenska for a person whose action is detrimental to the proper and prudent operation of the bank or where such action can reasonably be expected in cases specified in Section 28(12).

(2) From its issuer's register and list of shareholders, a bank shall submit to Národná banka Slovenska an extract produced on a relevant date<sup>49a</sup> that is no later than five working days before the date of its general meeting. The bank shall submit this extract to Národná banka Slovenska on the date it was produced. Národná banka Slovenska shall without delay name in writing on the extract the person whose rights mentioned in paragraph 1 are suspended and shall deliver the extract to the bank no later than the day preceding the date of the general meeting.

(3) A preliminary injunction mentioned in paragraph 1 shall be binding upon the bank.

(4) A preliminary injunction mentioned in paragraph 2 is also deemed delivered when given to a proxy authorised to represent the person concerned at the general meeting.

(5) A bank may not allow the presence at its general meeting of persons marked by Národná banka Slovenska under paragraph 2, or persons not included in the extract submitted by the bank under paragraph 2, or persons authorised to act on their behalf.

(6) The shares affected by a suspension of the exercise of rights under paragraph 1 are not deemed to be shares with voting rights during the suspension of these rights. These shares are not taken into account when a general meeting is assessed whether it has a quorum to take decisions or when the general meeting makes decisions. The resulting increase in the share of voting rights of other persons that are named in the extract submitted by the bank under paragraph 2 does not require the prior approval of Národná banka Slovenska under Section 28(1)(a).

(7) When the reasons for suspending the exercise of rights under paragraph 1 cease, Národná banka Slovenska shall lift the suspension without delay.

(8) Národná banka Slovenska shall be entitled to file a request in court to declare invalid a decision of a bank's general meeting owing to a violation of laws, other legislation of general application, decisions of Národná banka Slovenska, or the bank's articles of association, within three months from the date it learnt of this decision, but no later than within a year from the date when the decision was adopted.

## **Section 52a**

(1) Národná banka Slovenska shall notify the European supervisory authority (European Banking Authority) of any sanctions it has imposed, for the purposes of information exchange between the competent supervisory authorities via the central database maintained by the European supervisory authority (European Banking Authority). Národná banka Slovenska shall provide the European supervisory authority (European Banking Authority) with any information needed to keep that central database up-to-date.

(2) Národná banka Slovenska shall use the central database referred to in paragraph 1 for the purpose of assessing the reputation of persons under this Act. In providing data from the criminal register to the competent supervisory authorities, Národná banka Slovenska shall proceed in accordance with another act.<sup>49aa</sup>

### Section 53

(1) Národná banka Slovenska may impose receivership upon a bank where, in regard to the circumstances and the bank's financial situation, the measures referred to in Section 65a(7) are unlikely to eliminate the deficiencies in the bank's activities or to improve its financial situation.

(2) The purpose of receivership of a bank is in particular:

- (a) to prevent the bodies of a bank responsible for the deteriorating economic situation of the bank from performing their functions;
- (b) to eliminate the most serious shortcomings in the bank's management and activities with the objective of stopping further deterioration in the bank's economic situation;
- (c) to protect the deposits and other rights of the bank's clients and to protect the holders of covered bonds issued by the bank against damage or increasing damage;
- (d) to adopt a recovery programme, if the bank's economic recovery is feasible, including the adoption and performance of organisational and other measures designed to gradually stabilise the bank and restore its liquidity, mainly in cooperation with the major shareholders of the bank.

(3) Receivership is a reorganisation measure that may impact upon the existing rights of third persons.

(4) Národná banka Slovenska shall impose receivership if a bank's own funds are at a level lower than 50% of the total amount corresponding to the bank's own funds requirements.<sup>20a</sup>

(5) Národná banka Slovenska may impose receivership if shortcomings in the bank's operation put its safe functioning at risk or endanger the rights or interests of its clients protected by law, if the results of operations for the current period and for previous periods cause the bank a loss exceeding 30% of its share capital, or in the case of another serious shortcoming in the bank's operation. Národná banka Slovenska shall impose receivership in accordance with the first sentence only if the removal or replacement of a member of the bank's management board or supervisory board has not led to the elimination of shortcomings in the bank's operations, which thus continue posing a risk to its safe functioning or endangering the rights or interests of its clients protected by law, nor has it led to the elimination of other major shortcomings in the bank's operations or to an improvement in its financial position consisting in a loss exceeding 30% of the bank's share capital in its financial results for the current period or for the previous periods.

(6) Receivership shall be introduced from the moment of delivery of a decision on receivership to a bank; it shall have immediate effect on the bank and other persons. Through the delivery of this decision, the information obligation of Národná banka Slovenska will be met.

(7) From the moment of its introduction, receivership imposed on a bank also applies to its branches located in other Member States and shall be effective in relation to third persons, too. Receivership imposed on a bank branch located in another Member State shall be conducted and its effects managed pursuant to this Act, unless provided otherwise hereunder.

(8) Národná banka Slovenska may not place in receivership a foreign bank branch established by a foreign bank established in another Member State. Receivership in a foreign bank branch shall be subject *mutatis mutandis* to the provisions that apply to receivership imposed on banks.

(9) From the moment of its introduction, a foreign reorganisation measure with a similar purpose and impact upon the existing rights of third persons as the purpose and impact of receivership (hereinafter ‘foreign reorganisation measure’) introduced in a foreign bank established in a Member State also applies to its branch located in the territory of the Slovak Republic and is also effective in relation to third persons in the territory of the Slovak Republic. A foreign reorganisation measure introduced in a Member State over a foreign bank branch with a registered office outside the European Union shall, from the moment of its introduction, also be effective vis-à-vis third persons in the territory of the Slovak Republic. A foreign reorganisation measure introduced in a Member State shall be implemented in the territory of the Slovak Republic and its effects managed pursuant to legislation of that Member State, unless this Act provides otherwise.

(10) Národná banka Slovenska shall forthwith provide for the publication of the pronouncement of a decision on the imposition of receivership, instructions on how to file an appeal, and the purpose of receivership in the Journal of Národná banka Slovenska, in at least two nationwide dailies, on publicly accessible premises of the head office, and in commercial offices of the bank placed in receivership; any persons Národná banka Slovenska asks to disclose such data shall do so. Where receivership is imposed on a bank that has a branch located in the territory of a Member State, Národná banka Slovenska shall forthwith provide for the publication of the pronouncement of a decision on the imposition of receivership, instructions on how to file an appeal, and the purpose of receivership also in the Official Journal of the European Union and in at least two nationwide dailies of the relevant Member State, both in Slovak and in the official language of the Member State concerned. The publication of such data shall have no impact upon the effects of receivership.

(11) Národná banka Slovenska shall forthwith inform the relevant Member State’s competent supervisory authority about the imposition of receivership upon a bank that has a branch in the territory of that Member State. This information shall also comprise the explication of effects ensuing from the imposition of receivership.

(12) If, while exercising supervision in accordance with Section 16 over a foreign bank branch, Národná banka Slovenska reveals any reason for the introduction of a foreign reorganisation measure in the foreign bank that has its registered office in a Member State and to which this branch belongs, it shall report this fact to the competent supervisory authority of that Member State.

## Section 54

(1) Receivership in a bank is to be conducted by an official receiver (hereinafter ‘receiver’) and by a deputy receiver. A receiver and at most two deputy receivers are to be appointed or recalled by Národná banka Slovenska. For the same bank, one or more receivers may be appointed. A receiver and its deputies may be appointed for a period of maximum one year. In exceptional situations, Národná banka Slovenska may prolong this period, provided that the conditions of appointment are fulfilled.

(2) A certificate of the appointment of a receiver and a deputy receiver for the conduct of receivership and of persons implementing a foreign reorganisation measure in a foreign bank having its registered office in a Member State shall be an original of a deed of appointment or a certificate issued by Národná banka Slovenska or by the competent supervisory authority of the relevant



Member State. Certification of translation of such certificate into the official language of the Member State or the application of a similar procedure thereto shall not be required.

(3) A receiver may be a natural or legal person as specified in paragraph 5 of this Section.

(4) A receiver and a deputy receiver, if being a natural person, and the members of a receiver's or deputy receiver's statutory body, if being a legal person, must be persons with the same professional competence as the bank's supervisory board members in accordance with Section 7(14). A receiver or a deputy receiver may not be a person who:

- (a) is an employee of Národná banka Slovenska or a member of the Resolution Council or was an employee of Národná banka Slovenska or a member of the Resolution Council at any time in the past two years before the imposition of receivership;
- (b) has been lawfully sentenced for a criminal offence committed in a managerial position or for an intentional criminal act;
- (c) held, at any time in the past three years, office as a member of the supervisory board, statutory body, authorised representative, or a manager in the bank placed in receivership, unless the receiver voluntarily resigned from this office;
- (d) has a special relationship as defined in Section 35(4) with the bank placed in receivership;
- (e) is a borrower or creditor of the bank placed in receivership;
- (f) is an employee or member of the statutory or supervisory body of a legal person that is a borrower or creditor of the bank placed in receivership;
- (g) is a member of the statutory or supervisory body of another bank, or the head, or their deputy, of another foreign bank branch;
- (h) at any time in the past year, provided the bank placed in receivership with audit services, without expressing qualified opinion about the bank's activities.

(5) The partners or shareholders of a receiver, being a legal person, its statutory body, statutory body members, supervisory board members and employees through which the receiver conducts receivership in a bank, are subject to paragraph 4.

(6) A bank's receiver shall be authorised to manage the bank and its employees or to cooperate with the bank's statutory body in managing the bank and its employees. The statutory body shall cooperate with the receiver to such extent as the receiver may deem necessary for the exercise of its powers. The powers of a receiver are defined by this Act, other legislation,<sup>49b</sup> and a contract to perform the functions of a receiver which is concluded under Section 57(1) and is not subject to other legislation.<sup>27</sup> Acting in the capacity of a receiver, who is a natural person, shall be deemed to be a public office, for the performance of which days off shall be provided under other legislation. The receiver shall be bound by limitations specified in a decision of Národná banka Slovenska on the introduction of receivership or the contract to perform the functions of a receiver.

(7) A deputy receiver shall be responsible for the sphere of activity of a bank in receivership that is entrusted to him or her by the receiver and shall report to the receiver when conducting receivership. The powers of a deputy receiver are defined in a contract to perform the functions of a deputy receiver concluded with Národná banka Slovenska under Section 57(1) and not subject to other legislation.<sup>27</sup> Acting in the capacity of a deputy receiver, if being a natural person, is to be regarded as a public office, for the performance of which days off are to be provided under other legislation. With the prior written approval of Národná banka Slovenska, the receiver may empower in writing one of their deputies to perform acts on behalf of the receiver, on the basis of a written power of attorney with a signature verified in accordance with other legislation;<sup>50</sup> such prior approval may be expressed directly in the contract to perform the functions of a receiver.

(8) In conducting receivership in the territory of another Member State, a receiver and a deputy receiver shall proceed in accordance with laws and other legislation of general application of the Member State in the territory of which they operate, especially when realising assets and providing information to employees.

(9) A person implementing a foreign reorganisation measure introduced in a Member State and their deputy shall have, when implementing this foreign reorganisation measure, the same legal status and shall be authorised to perform all the powers in the territory of the Slovak Republic as if conducting receivership in the territory of the Member State in which the foreign reorganisation measure has been introduced; when performing their powers, however, they must proceed in accordance with the laws and other legislation of general application of the Slovak Republic, especially when realising assets and providing information to employees.

(10) With the prior written approval of *Národná banka Slovenska*, a receiver conducting receivership shall be entitled, with the aim of accelerating the solution of serious problems in the bank in receivership, to hire professional advisors; such prior approval may be expressed directly in the contract to perform the functions of a receiver. A professional advisor may be hired exclusively for tasks for the performance of which they have the necessary professional competence and experience. A professional advisor may not be a person who under paragraph 4 may not be a receiver.

(11) The office of a receiver and their deputies shall terminate on the date when the receivership ends, the period for which they were appointed expires, or on the day of their dismissal from office. *Národná banka Slovenska* shall dismiss a receiver or a deputy receiver if, in connection with receivership, they violate this Act or other legislation of general application, or if there are reasons for their dismissal as specified in the contract to perform the functions of a receiver or deputy receiver.

## **Section 55**

(1) Where a bank is placed in receivership, the performance of functions shall be suspended for all bodies and managers of that bank,<sup>22</sup> except for the general meeting of shareholders, and the powers of the bank's statutory body and supervisory board shall be transferred to the receiver. During this time, the term of office of members of the statutory body and the supervisory board shall not lapse. This shall not preclude the right of the statutory body to appeal against the decision to impose receivership. In performing the duties of the statutory body and the supervisory board, the receiver is not subject to other legislation.<sup>1</sup>

(2) A receiver is authorised to convene and chair a general meeting of a bank, to set the agenda thereof, and to submit proposals. A general meeting may be convened and its agenda set only with the prior approval of *Národná banka Slovenska*.

(3) A receiver shall be entitled to take measures needed to restore the stability and liquidity of a bank, in particular to dispose of its accounts receivable and other assets, including the sale of a branch or another organisational unit of the bank as part of the bank's business or the bank's entire business for a reasonable price, to close down a branch or another organisational unit of the bank, or to discontinue their operations; the foregoing is without prejudice to the provisions of Section 28(1).

(4) A receiver shall, no later than 30 days after the imposition of receivership, submit to *Národná banka Slovenska* a recovery programme for the bank placed in receivership, or propose another solution for the situation in the bank.

(5) A receiver may, with the prior approval of Národná banka Slovenska and the Resolution Council, put forward a motion for bankruptcy proceedings<sup>52</sup> if a bank becomes insolvent.<sup>24aa</sup>

(6) A receiver may submit a proposal to Národná banka Slovenska for the withdrawal of a banking authorisation if they find any of the facts stated in Section 63.

(7) The provisions of paragraphs 1 to 6 do not apply where the receiver's powers as specified in Section 54(6) consist in cooperation with the statutory body in the bank's management.

(8) If, while performing due diligence, the receiver of a bank that is a covered bond issuer concludes that further administration of a covered bond programme would have a negative effect on the settlement of the claims of covered bond holders, they shall, on their own initiative and in cooperation with the covered bond programme administrator, notify Národná banka Slovenska in writing regarding the intention to transfer the covered bond programme or parts thereof to a third party, which must be a bank or several banks authorised to perform activities related to a covered bond programme, with the aim of transferring the covered bond programme at an adequate price within one year from the date when the notification was served to Národná banka Slovenska, unless paragraph 9 stipulates otherwise. When drawing the conclusion mentioned in the first sentence, the receiver shall take into account the interests and fair settlement possibilities of all covered bond holders, including creditors of liabilities with the longest maturity. Transfers of covered bond programmes or parts thereof are governed by the provisions of the Commercial Code concerning the sale of an enterprise or a part thereof,<sup>28</sup> with the difference that a transfer of a covered bond programme shall not require a transfer of either the enterprise's personal assets, or any part thereof,<sup>28b</sup> and that upon completion of the transfer of a covered bond programme or a part thereof the creditor may not seek a declaration of ineffectiveness of the transfer or transition of such liability from the seller to the buyer where the obligation towards the creditor forms a part of the transfer of a covered bond programme or the corresponding part thereof.<sup>28c</sup> The provisions of Section 82(2) do not apply to a transfer of a covered bond programme or a part thereof by the receiver of a bank that is a covered bond issuer.

(9) If the transfer of a covered bond programme or a part thereof to a third party is not carried out within one year from the date when the notification was served to Národná banka Slovenska as stipulated in paragraph 8, Národná banka Slovenska may, based on a written application submitted by the corresponding receiver, decide to extend this period by up to one year; this shall be done no later than one month before the lapsing of this period and if a later transfer of the covered bond programme is reasonably likely to ensure a higher settlement ratio of the claims of covered bond holders.

(10) In order to be valid and effective, the transfer of a covered bond programme or a part thereof does not require the consent of the covered bond holders under other legislation,<sup>52a</sup> or hedging derivate counterparties, or the debtors of liabilities corresponding to claims for payment in the primary assets under Section 70.

## Section 56

(1) Receivers, deputy receivers, and invited professional advisors shall perform their duties with due professional care and shall be liable for any damage caused by their activity. Receivers and deputy receivers shall regularly inform Národná banka Slovenska of the steps they have taken in the course of receivership. Národná banka Slovenska may require receivers to submit regular reports on the financial positions of banks in receivership. Such reports shall be submitted no later than two weeks before the end of receivership.

(2) Receivers, deputy receivers, and invited professional advisors may not misuse the information they acquire while conducting receivership in their favour or in favour of other persons, and may not handle a bank's assets in their favour or in favour of close persons.<sup>30</sup>

(3) Receivers, deputy receivers, and invited professional advisors shall keep confidential any facts associated with the conduct of receivership in relation to all persons, except for Národná banka Slovenska, in connection with the performance of their tasks under this Act or other legislation;<sup>8</sup> the duty of confidentiality remains in effect after they complete their tasks in connection with the receivership. The foregoing is without prejudice to the provisions of Section 91(2) to (7), Section 92(1) to (7), and Section 93.

### **Section 57**

(1) Národná banka Slovenska shall conclude a contract with a receiver to perform the tasks of a receiver, which shall specify in detail the receiver's rights and duties. It shall also define the receiver's liability for any damage caused in conjunction with the performance of these tasks. Národná banka Slovenska shall conclude a contract with a deputy receiver to perform the tasks of a deputy receiver, which shall specify in detail the deputy receiver's rights and duties. It shall also define the deputy receiver's liability for any damage caused in connection with the performance of these tasks.

(2) A receiver shall invite professional advisors under Section 54(10) on a contractual basis, in accordance with the terms and conditions approved by Národná banka Slovenska.

(3) The remuneration due to the receiver and deputy receiver for their office shall be determined by Národná banka Slovenska.

(4) Expenses related to the conduct of receivership, including the remuneration of the receiver, deputy receiver, and professional advisors shall be covered by the bank placed in receivership.

### **Section 58**

(1) Members of the statutory body, members of the supervisory board, managers, and the chief internal control/audit officer shall, at the request of a receiver, cooperate with the receiver, in particular to provide any document and material requested by the receiver in connection with the conduct of receivership.

(2) A receiver shall be entitled to immediately terminate an employment contract, give a dismissal notice, or transfer to another position<sup>27</sup> a manager or the chief internal control/audit officer. This does not apply where the receiver's powers as specified in Section 54(6) consist in cooperation with the statutory body in the bank's management.

(3) In a bank placed in receivership, the members of the bank's statutory body and supervisory board may not receive any severance pay or any benefits upon termination of their membership in these bodies provided for in contracts made between the bank and the statutory body members or supervisory board members, or stipulated by the bank's internal regulations.

### **Section 59**

(1) The effects of receivership imposed upon a bank having a branch in another Member State, if concerned are:

- (a) labour contracts and labour-law relations shall be governed by the legal system of the Member State pertaining to the labour contract;
- (b) purchase contracts and lease contracts relating to real property shall be governed by the legal system of the Member State in the territory of which the real property is located;
- (c) rights relating to real property, a ship or an airplane, that must be recorded in the real estate register or in another public register, shall be governed by the legal system of the Member State in the territory of which the relevant public register is kept; this shall equally apply to legal acts carried out after receivership has been imposed, in respect of real property, a ship or an airplane, and the associated rights, required to be entered in a public register or another similar register kept in the Member State concerned;
- (d) ownership rights or other rights to investment instruments<sup>37a</sup> that must be entered in a public register of securities or another similar register, kept or located in a Member State, shall be governed by the legal system of the Member State in the territory of which the relevant public register or other similar register is kept; this shall equally apply to legal acts carried out upon the imposition of receivership, relating to the financial instruments and the associated rights that are required to be entered in a public register or another similar register kept in the Member State concerned;
- (e) contracts on settlement or other similar agreements, the purpose of which is to compensate or change the overall difference between the mutual claims and liabilities of contracting parties into a single summary mutual claim or liability for these contracting parties; purchase and repurchase agreements, and contracts for stock exchange transactions, shall be governed by the legal system applying to these contracts.

(2) For a period of six months from the imposition of receivership, no assignment of claims against the bank in receivership or claim set-offs between the bank and other persons shall be permitted, except for cases where the legal system of another Member State in which the creditor's residence or registered office is located allows for the assignment of claims and claim set-offs even during the introduction of a reorganisation measure.

(3) A receiver may challenge a legal act<sup>53</sup> carried out in the past three years prior to the imposition of receivership with the intention of harming the bank or its creditors, if such intention was known to the bank; this does not apply if the counterparty can document that, despite due care, it could not be aware of the bank's intention to harm its creditors.

(4) A receiver may also challenge a legal act<sup>53</sup> inflicting damage on a bank, carried out in the past three years prior to the imposition of receivership between the bank and a person in a special relationship with the bank.

(5) The imposition of receivership or of a foreign reorganisation measure in a Member State shall not affect the real rights of creditors or third persons in relation to assets belonging to a bank or a foreign bank, which, at the time when receivership or a foreign reorganisation measure is introduced, are located in the territory of another Member State.

(6) The imposition of receivership on a bank purchasing an asset or of a foreign reorganisation measure in a foreign bank purchasing an asset shall not affect the entitlement of the seller to maintain the ownership, if, at the time when receivership or a foreign reorganisation measure is introduced in a Member State, this asset is located in the territory of another Member State.

(7) The imposition of receivership on a bank selling an asset, or of a foreign reorganisation measure in a foreign bank selling an asset, shall not constitute grounds for cancellation or termination of the sale of an already delivered asset and shall not prevent the buyer from acquiring the ownership, if, at the time when receivership or a foreign reorganisation measure is introduced, the asset under sale is located in the territory of another Member State

(8) The introduction of receivership or of a foreign reorganisation measure in a Member State and the provisions of paragraphs 2, 5, 6 and 7 shall not be an obstacle to filing a motion with the court to determine the nullity of legal acts or invalidity of disputable legal acts that are detrimental to creditors, a motion to determine the right to withdraw from legal acts, or a motion to pronounce the nullity of legal acts detrimental to creditors, or a motion to impose a non-deferrable measure concerning an obligation to refrain from the performance of legal acts detrimental to creditors of a bank placed in receivership or creditors of a foreign bank in which a foreign reorganisation measure has been introduced. If, before the introduction of receivership, court proceedings have been commenced in a Member State concerning an asset or a right withdrawn from a bank, such proceedings shall be governed, even after the introduction of receivership, by the legal system of the Member State in which the proceedings has been commenced and conducted.

(9) The imposition of receivership on a bank is without prejudice to the validity, effectiveness, and exercise of rights under a contract on final settlement of gains and losses or a contract on financial collateral, provided that such contract meets the requirements of other legislation.<sup>53a</sup>

## Section 60

(1) Introduction of receivership, information on the receiver and their deputy, and the end of receivership and associated changes shall be recorded in the Commercial Register.<sup>1</sup> A proposal to record the introduction of receivership shall be submitted by Národná banka Slovenska; the submission of such proposal is not subject to other legislation.<sup>54</sup>

(2) The following information shall be recorded in the Commercial Register:

- (a) the forename and surname, permanent address, and personal identification number of the receiver and deputy receiver, if they are natural persons; and
- (b) the business name, registered office address, and identification number of the receiver and deputy receiver, if they are legal entities.

(3) A receiver may propose that receivership be entered in the Commercial Register or a similar public register kept in another Member State within the territory of which a bank branch placed in receivership is located, provided that such entry is allowed by the legal system of the relevant Member State. A receiver who is authorised to cooperate with the statutory body of a bank only in managing its staff and business shall not be required to be entered in the Commercial Register.

(4) The introduction of a foreign reorganisation measure in a foreign bank having its registered office in a Member State and a branch in the territory of the Slovak Republic, its termination and changes related thereto shall be entered into the Commercial Register. A motion for entry shall be filed by the competent supervisory authority of the Member State concerned or by the person implementing the foreign reorganisation measure. The forename and surname and address of residence of the person in charge of the foreign reorganisation measure shall also be entered into the Commercial Register.

## Section 61

(1) During receivership, Národná banka Slovenska may provide financial assistance to a bank in order to overcome a temporary lack of liquidity. A loan by which such financial assistance is provided must be adequately secured by assets serving as collateral; no bank may be favoured or disfavoured in the provision of such financial assistance.

(2) Claims for the repayment of financial assistance provided in accordance with paragraph 1 shall have priority over the bank's other liabilities, except for such other liabilities that have priority in the satisfaction of claims under other legislation.<sup>55</sup>

## Section 62

(1) Receivership shall end:

- (a) upon delivery of a decision by Národná banka Slovenska to end receivership, when reasons for its continuation cease;
- (b) when the bankruptcy of the bank in receivership is declared;
- (c) upon expiry of twelve months from the imposition of receivership; this does not apply where Národná banka Slovenska assesses that, upon expiry of the twelve-month period, the reasons for receivership still persist; or
- (d) by withdrawal or expiry of the banking authorisation.

(2) The end of receivership under paragraph 1 shall be promulgated without delay by Národná banka Slovenska in at least one nationwide daily and on the publicly accessible premises of the bank in receivership and in all its commercial offices. Persons asked by Národná banka Slovenska to promulgate this announcement have the duty to do so.

(3) A bank whose receivership ends shall convene an extraordinary general meeting without delay so that it is held within 30 days of the end of receivership. The bank shall include in the agenda of the extraordinary general meeting the dismissal of the present and the election of new members of the bank's statutory body and supervisory board; the new statutory body and supervisory board members must comply with the criteria stipulated in Section 7(2)(e).

## Section 62a

(1) Národná banka Slovenska as a consolidating supervisor shall notify the European supervisory authority (European Banking Authority) and the College members of its intention to issue a decision to impose receivership upon a bank that is a parent undertaking and shall discuss the matter with the College. Národná banka Slovenska shall take into account the impact of receivership on the members of the group concerned, established in other Member States. Národná banka Slovenska shall inform the College members and the European supervisory authority (European Banking Authority) of the issuance of such decision.

(2) If Národná banka Slovenska as the consolidating supervisor is notified that another Member State's supervisory authority of a member of a group intends to issue a decision in respect of a foreign reorganisation measure, Národná banka Slovenska may assess the probable impact of that decision on the group or on its members from other Member States and report its comments to the competent supervisory authorities of those Member States within three days.

(3) Národná banka Slovenska shall notify the European supervisory authority (European Banking Authority) of its intention to issue a decision to impose receivership upon a bank that is part of a group and shall discuss the matter with the competent consolidating supervisor of that group. After notifying its intention to impose receivership and discussing the matter with the College

members, Národná banka Slovenska shall decide whether to impose receivership pursuant to Section 53(1) and (2). Národná banka Slovenska shall inform the College members and the European supervisory authority (European Banking Authority) of the issuance of such decision.

(4) If Národná banka Slovenska as a consolidating supervisor is notified pursuant to paragraph 2 that one or more supervisory authorities of other Member States exercising supervision over the members of a group intend to issue a decision in respect of a foreign reorganisation measure, Národná banka Slovenska shall, working closely with these supervisory authorities, assess as to whether it would be more appropriate to appoint one receiver for all the members of that group, within five days of the date of notification pursuant to paragraph 1. If Národná banka Slovenska fails to reach a joint decision with the supervisory authorities within this time limit, Národná banka Slovenska shall decide to impose receivership upon a group member on its own. If, within the time limit specified in the first sentence, any of the supervisory authorities requests assistance from the European supervisory authority (European Banking Authority) to reach an agreement under other legislation,<sup>19</sup> Národná banka Slovenska as a consolidating supervisor shall decide in the matter in accordance with the decision taken by the European supervisory authority (European Banking Authority). If the European supervisory authority (European Banking Authority) fails to issue such decision within three days of receipt of the request for assistance, Národná banka Slovenska shall decide in respect of the imposition of receivership on its own. Národná banka Slovenska shall inform the College members of its decision to impose receivership.

(5) If Národná banka Slovenska disagrees with the competent supervisory authority's intention to issue a decision in respect of a foreign reorganisation measure in relation to a parent undertaking that is part of a group, along with a banking subsidiary that is supervised by Národná banka Slovenska, or in relation to a subsidiary established in another Member State and belonging to a group supervised by Národná banka Slovenska or if no joint decision is reached, Národná banka Slovenska may request assistance from the European supervisory authority (European Banking Authority) under other legislation.<sup>19</sup>

### Section 63

(1) Národná banka Slovenska shall withdraw a banking authorisation where:

- (a) a bank's own funds fall below the share capital limit specified in Section 7(2)(a);
- (b) a bank maintains its own funds at a level lower than 25% of the sum of values corresponding to the bank's own funds requirements;<sup>20a</sup>
- (c) a bank or a foreign bank branch does not start providing services under the first sentence of Section 2(2) within 12 months after its banking authorisation enters into force, or ceases to provide services for a period of 12 months;
- (d) a bank or a foreign bank branch has acquired its banking authorisation on the basis of any misstatement in its authorisation application;
- (e) a bank or a foreign bank branch is unable, for a period of at least 30 days, to pay its due liabilities or has been declared unable to repay deposits under other legislation;<sup>32</sup>
- (f) in the case of a foreign bank branch, the parent bank has lost its authorisation to operate as a bank in its home country;
- (g) a bank or a foreign bank branch violates the provisions of Section 7(6) and (7), Section 8(6) and (7), and Section 28(5), (8) and (9);
- (h) an investment bank uses its banking authorisation only for activities specified in other legislation<sup>1a</sup> and the average amount of its total assets remains below the threshold value under the other legislation<sup>1ac</sup> for five consecutive years.



(2) Národná banka Slovenska may withdraw a banking authorisation if serious shortcomings occur in the operation of a bank or a foreign bank branch, and in case of failure to meet the requirements regarding the business activities of banks and foreign bank branches, if:

- (a) a bank suffers a loss exceeding 50% of its share capital in single year, or 10% per year in three consecutive years;
- (b) a bank, foreign bank branch, or a foreign bank, either in part or in full, prevents depositors from disposing of their deposits in the bank or foreign bank branch without the prior approval of Národná banka Slovenska or without a decision made under other legislation;<sup>56</sup>
- (c) a bank or a foreign bank branch fails to meet the obligations laid down in other legislation;<sup>57</sup>
- (d) a bank or a foreign bank branch fails to meet the terms and conditions for the commencement of its activities within the time limit specified in its banking authorisation;
- (e) a bank fails to comply with the terms of Section 7(2), or a foreign bank branch fails to comply with the terms of Section 8(2);
- (f) a bank or a foreign bank branch has changed its registered office without the prior approval of Národná banka Slovenska;
- (g) a bank or a foreign bank branch repeatedly or after the imposition of a disciplinary fine mars the exercise of supervision;
- (h) sanctions imposed under this Act or another act<sup>89</sup> have not led to the correction of shortcomings found.

#### Section 64

(1) A banking authorisation shall expire:

- (a) for a bank, on the date of its dissolution for reasons other than the withdrawal of its banking authorisation;
- (b) for a bank, on the date of declaration of its bankruptcy under other legislation;<sup>58</sup>
- (c) for a foreign bank branch, on the date of declaration of bankruptcy of the foreign bank or on the day the foreign bank is dissolved for reasons other than the withdrawal of its banking authorisation;
- (d) for a bank or a foreign bank branch, on the date it returns its banking authorisation; such authorisation may only be returned in writing with prior approval as stipulated in Section 28(1)(b);
- (e) if a bank or a foreign bank branch has not filed a proposal for entry in the Commercial Register under Section 9(6);
- (f) on the date a bank or a foreign bank branch is sold;<sup>28</sup>
- (g) for a foreign bank branch, on the date its operation is discontinued by the foreign bank;
- (h) for a bank or a foreign bank branch, for those banking activities for which a special authorisation as mentioned in Section 2(4) has expired.

(2) A bank, foreign bank, or foreign bank branch shall notify Národná banka Slovenska in writing of any facts mentioned in paragraph 1(a), (b), (c), (d), (e), and (g), within 30 days of their occurrence.

#### Section 65

(1) Following the delivery of a decision to withdraw a banking authorisation or the expiry of a banking authorisation, Národná banka Slovenska shall forthwith discontinue, for a legal person whose authorisation expired or was withdrawn, the provision of payment and settlement services under Section 2(13).

(2) From the delivery of a decision to withdraw a banking authorisation or from the date on which a banking authorisation expires, the legal person mentioned in paragraph 1 may not accept deposits or provide loans, nor perform activities other than those necessary to settle its outstanding claims and liabilities; such a legal person shall make payments to settle its existing claims and liabilities through an account established in another bank.

(3) A legal person whose banking authorisation has been withdrawn or has expired shall conduct activities under paragraph 2 as a bank or a foreign bank branch under this Act until its claims and liabilities are settled. The duty to submit accounting statements, statistical reports, and prudent banking reports does not apply to such a legal person.

(4) Within 30 days after the entry into force of a decision to withdraw a banking authorisation, Národná banka Slovenska shall send the decision for publication in the Commercial Bulletin.<sup>24c</sup>

(5) A valid decision to withdraw a foreign bank's authorisation to conduct banking activities through a branch shall be reported by Národná banka Slovenska to the competent supervisory authority of the country in which the foreign bank has its registered office. If a decision is issued to withdraw a banking authorisation of a legal person that has a foreign branch, Národná banka Slovenska shall report this fact to the competent supervisory authority of the country in which the legal person has its branch.

(6) The withdrawal of a banking authorisation shall be recorded in the Commercial Register.<sup>1</sup> Within 15 days from the effective date of a decision to withdraw a banking authorisation, Národná banka Slovenska shall send a proposal to register this fact to the court keeping the Commercial Register; the submission of such proposal is not subject to other legislation.<sup>54</sup>

(7) As soon as a decision to withdraw a banking authorisation enters into force, Národná banka Slovenska shall forthwith file a proposal to the competent court to dissolve the bank.

(8) When a bank is wound up by liquidation, Národná banka Slovenska shall appoint a liquidator in accordance with Section 66(1) as soon as a decision of the court to dissolve the bank enters into force.

(9) When a bank is wound up following the expiry of a banking authorisation pursuant to Section 64(1)(d) by liquidation in accordance with other legislation,<sup>59</sup> it shall request Národná banka Slovenska to appoint a liquidator pursuant to Section 66(1).

(10) Národná banka Slovenska shall discontinue the proceedings to withdraw a banking authorisation on the basis of a decision to declare bankruptcy under other legislation.<sup>58</sup>

### **Section 65a**

#### **Early intervention measures**

(1) If Národná banka Slovenska finds deficiencies in a bank's activities consisting in non-compliance with or circumvention of the provisions of this Act, the binding legal acts of the European Union governing the performance of banking activities or other legislation of general application pertaining to banking activities, or if Národná banka Slovenska has good reasons to suspect that a deficiency in a bank's activities may occur in the near future owing to its deteriorating financial situation, Národná banka Slovenska may impose an early intervention measure on that bank in the form of one of the following obligations:

- (a) to implement one or more measures from its recovery plan or to update that plan and implement one or more measures from the updated recovery plan;
- (b) to carry out an analysis of its situation, to propose measures for the problems identified, and to draw up a plan for their implementation, including a schedule;
- (c) to convene a general meeting and to set its agenda according to the recommendations of Národná banka Slovenska; if the bank fails to convene a general meeting, Národná banka Slovenska may convene a general meeting and set its agenda, subject *mutatis mutandis* to the provisions of another act;<sup>1</sup>
- (d) to remove a member of the management board or supervisory board, the authorised representative or a manager failing to meet the requirements laid down in Section 7(14) and (15) and in Section 25;
- (e) to set an agenda for negotiations with the bank's creditors about liability restructuring;
- (f) to make changes in the bank's business strategy;
- (g) to make changes in the bank's organisational structure and in the conduct of banking activities;  
or
- (h) to submit to the Resolution Council any information that is needed for updating the bank's resolution plan, for the preparation of resolution proceedings, and for the valuation of the bank's assets and liabilities under other legislation.<sup>60a</sup>

(2) In assessing whether a bank's financial situation is deteriorating as described in paragraph 1, Národná banka Slovenska shall examine the bank's situation in terms of its liquidity risk exposure, leverage ratio, volume of non-performing loans, concentration risk exposure and capital adequacy ratio, which exceeds the own-funds requirement by less than 1.5 percentage points.

(3) Národná banka Slovenska shall, without delay, notify the Resolution Council of any deficiencies identified in accordance with paragraph 1. The Resolution Council shall be entitled to impose on the bank concerned a requirement to enter into negotiations with potential buyers of the bank or a part thereof, while taking into account the conditions specified in other legislation.<sup>48h</sup>

(4) Národná banka Slovenska shall set a time limit for the implementation of early intervention measures as listed in paragraph 1, taking into account the circumstances and the gravity of the deficiency in the bank's activities, as well as any reasonable grounds to suspect that a deficiency may occur in the near future.

(5) The application of early intervention measures as listed in paragraph 1 is without prejudice to the provisions of Section 50.

(6) The application of early intervention measures in relation to a bank that is part of a consolidated unit is subject *mutatis mutandis* to the provisions of Section 62a.

(7) If a bank's financial situation is rapidly deteriorating or Národná banka Slovenska finds major deficiencies in its activities but the early intervention measures listed in paragraph 1 fail to remedy the situation, Národná banka Slovenska may remove a member of the bank's management board, supervisory board or a manager. The appointment of a new management board member, supervisory board member or manager is subject to approval by Národná banka Slovenska.

(8) The application of the procedure described in paragraph 7 is without prejudice to the provisions of Section 50.

(9) An early intervention measure may be imposed within two years of the date when deficiencies are identified or a suspicion arises that a deficiency may occur in the near future, but no

later than ten years from its occurrence. The same time limits are to be applied when a person is removed from office pursuant to paragraph 7. The limitation periods mentioned in the first and second sentences are to be interrupted when an event leading to such interruption under other legislation<sup>48aa</sup> occurs. Subsequently, a new limitation period will begin to lapse from the time of interruption. Deficiencies in a bank's activities are to be considered detected from the date when the relevant on-site inspection is completed in accordance with other legislation.<sup>48a</sup>

(10) A decision to impose an early intervention measure is executable upon its delivery. It is possible to lodge an appeal against such decision under other legislation.<sup>60b</sup>

(11) The disclosure of information about an early intervention measure or about a person's removal from office under paragraph 7 is subject to the provisions of Section 50(15) to (17).

(12) The early intervention measures listed in paragraph 1 are subject to the provisions of other legislation.<sup>60c</sup>

## **DIVISION ELEVEN LIQUIDATION OF A BANK**

### **Section 66**

(1) When a bank is wound up by liquidation, only Národná banka Slovenska is entitled to appoint a liquidator; the appointment of a liquidator is not subject to the provisions on proceedings in matters of financial market supervision under other legislation<sup>60</sup> or the provisions of legislation of general application on administrative proceedings.<sup>72a</sup> As soon as a liquidator is appointed, Národná banka Slovenska shall submit a proposal for the liquidator's entry in the Commercial Register.

(2) A liquidator may not be a person who has or had a special relationship with the bank, who is or was at any time in the last five years an auditor of the bank, or was engaged in its audit in any way, without expressing a qualified opinion on the bank's operations.

(3) Národná banka Slovenska shall set the liquidator's remuneration, taking into account the range of their activities, and it shall also determine the due date for such remuneration.

(4) Persons involved in the liquidation of a legal person whose banking authorisation has been withdrawn, or has expired, shall keep confidential any facts associated with the conduct of liquidation vis-à-vis all persons except for Národná banka Slovenska in connection with the performance of its tasks under this Act or under another act,<sup>8</sup> even upon the termination of liquidation; this is without prejudice to the provisions of Sections 91 to 93a.

(5) A liquidator shall forthwith submit to Národná banka Slovenska accounting statements and documents processed in the course of liquidation under other legislation<sup>1</sup> and other supporting documentation requested by Národná banka Slovenska in order to review the liquidator's activity and the progress of liquidation.

(6) A liquidator shall enforce the surrender of any consideration paid according to invalid or disputable legal acts which harmed the bank or its creditors. The liquidator shall also perform other activities necessary for the purposes of liquidation of this legal person. Such activities may only be performed with the approval of Národná banka Slovenska. The provisions of Sections 94 to 114 or the Code of Administrative Procedure do not apply to the granting of such approval.

(7) A liquidator shall publish the pronouncement of a decision on the liquidation of a legal person whose banking authorisation has been withdrawn, or has expired, in the Official Journal of the European Union and at least two nationwide dailies in each Member State where a branch of this legal person is located, namely in the Slovak language and the official language of the relevant Member State.

(8) The provisions of paragraphs 1 to 7 shall likewise apply to the liquidation of a foreign bank branch having its registered office outside the European Union.

(9) The provisions of Section 54(2) and Section 59(1), (2) and (5) to (8) shall equally apply to the liquidation of a legal person whose banking authorisation has been withdrawn or has expired, including its branch located in the territory of another Member State, to the liquidation of a foreign bank branch having its registered office outside the European Union, as well as to the liquidator's procedures.

(10) Claims of a bank or a foreign bank branch in liquidation shall be settled in the same order as they would be settled when satisfying creditors in the case of bankruptcy of a bank under other legislation.<sup>83a</sup>

## **DIVISION TWELVE COVERED BOND PROGRAMMES**

### **Section 67 Covered bonds and covered bond programmes**

(1) A covered bond is a secured bond under other legislation,<sup>61</sup> whose principal amount and aliquot interest income are fully secured by assets in the related cover pool in accordance with Section 68(1) and correspond to the value of assets which, throughout the entire lifetime of the bond, are used on a priority basis for covering claims attaching to the bond.

(2) Banks may issue covered bonds only in accordance with this Act and the bond names must include the label "covered bond". Banks that issue covered bonds may also identify covered bonds using the following labels:

- (a) "European Covered Bond" or a translation of these words into all official languages of the European Union if they are covered by primary assets under Section 70(1)(c) or (d).
- (b) "European Covered Bond (Premium)" or a translation of these words into all official languages of the European Union if they are covered by primary assets under Section 70(1)(a) or (b) and the requirements laid down by other legislation<sup>61a</sup> are also met.

(3) Information under Section 37(9)(i) to (q), intended to allow the owners of covered bonds to assess the profile and risk of the respective covered bond programme and to carry out their due diligence, shall be published only by the bank that is the issuer of the covered bonds.

(4) Bonds under other legislation<sup>61</sup> that do not meet the conditions for covered bonds laid down in this Act must not be referred to using terms under paragraph 2.

(5) A covered bond programme is the set of all rights and obligations of the bank that is the issuer of the covered bonds in respect of the issuing of bonds and the related cover pool. Separate covered bond issues with the same type of primary assets shall be considered a single covered bond

programme. Banks that issue covered bonds shall maintain a separate covered bond programme for each asset type under Section 70(1).

(6) A part of the covered bond programme must correspond to one or several covered bond issues together with a corresponding cover pool meeting the coverage requirements laid down in Section 68.

(7) Covered bond holders and counterparties of hedging derivatives shall have a pre-emptive security right to assets in the related cover pool. In procedures defined in this Act or other legislation,<sup>58</sup> a security right under the first sentence shall secure the claims of holders of covered bonds and counterparties of hedging derivatives against the issuing bank.

(8) In the event of resolution of a bank that is an issuer of covered bonds or its inability to settle its obligations in a timely manner, the principal, aliquot interest and future interest on assets under Section 68(1) shall be used on a priority basis to settle obligations under Section 68(3)(a) and (c) within the related covered bond programme.

(9) In the event of resolution of a bank that is an issuer of covered bonds or its inability to settle its obligations in a timely manner, covered bonds shall not automatically become due immediately and the owners of the covered bonds shall not have an enforceable claim for payment of the principal amount and aliquot interest income of these covered bonds before the scheduled maturity date unless other legislation<sup>61aa</sup> stipulates otherwise.

## **Section 68** **Cover pool**

(1) A cover pool is a set of assets that primarily cover the payment obligations arising from the covered bonds in the related covered bond programme and which are held separately from other assets held by the bank that is the issuer of the covered bonds. A cover pool shall contain the following asset types:

- (a) primary assets as defined in Section 70;
- (b) substitution assets as defined in Section 72;
- (c) hedging derivatives as defined in Section 73;
- (d) liquid assets as defined in Section 74.

(2) Assets become a part of a cover pool with their recording in the covered bond register under Section 75 and remain a part of the cover pool until they are removed from the covered bond register.

(3) A cover pool may only be used to cover:

- (a) the obligations of the bank that is the issuer of the covered bonds to pay out the principal amount and aliquot interest income from all covered bonds issued by this bank in the related covered bond programme until they have been redeemed in full;
- (b) the estimated obligations and costs of the bank that is the issuer of the covered bonds arising from and directly related to administration, the winding down of the covered bond programme and the settlement of covered bonds in relation to entities performing activities under this Act, or which derive from the issue conditions, specifically vis-à-vis the covered bond programme administrator, payment service agents, administrators, representatives of covered bond holders and other entities performing similar activities; the bank that is the issuer of the covered bonds may also set estimated obligations and costs based on a flat-rate calculation;
- (c) obligations of the bank that is the issuer of the covered bonds in respect of hedging derivatives

under Section 73 for the related covered bond programme.

(4) Assets making up the cover pool and the resulting payment claims are used by the bank that is the issuer of the covered bonds on a priority basis to cover the obligations under paragraph 3; until their removal from the covered bond register, the bank that is the issuer of the covered bonds shall not alienate these assets or use them to secure other liabilities. The same methodology must be used to calculate the value of the assets under paragraph 1 and the obligations under paragraph 3.

(5) In the event of resolution of a bank that is an issuer of covered bonds or its inability to settle its obligations in a timely manner, its assets under paragraph 1, including their collateral, or the proceeds from their transfer will be used on a priority basis to cover the obligations defined in paragraph 3 until they have been redeemed in full.

(6) For the purposes of paragraphs 2 to 5, assets under paragraph 1 include any collateral received in connection with loans in the hedging derivatives under Section 73.

(7) Claims of a bank that is an issuer of covered bonds recorded in the covered bond register and meeting the requirements laid down in this Act are not subject to enforcement proceedings.<sup>61ab</sup>

## **Section 69**

### **Calculation of the coverage ratio**

(1) The coverage ratio is the ratio of the sum the values determined in accordance with Section 70(4), Section 72(3), Section 74(4) including claims for payment from hedging derivatives to the sum of liabilities and costs under Section 68(3)(a) and (b) including payment obligations from hedging derivatives. Overcollateralisation is the part of the ratio in the first sentence exceeding 100% on a statutory, contractual or voluntary basis. Banks that are issuers of covered bonds shall calculate the coverage ratio as at the last day of the month for each covered bond programme separately.

(2) Banks that are issuers of covered bonds must secure and continuously maintain overcollateralisation at the following levels in the following areas:

- (a) in accordance with special legislation,<sup>61ac</sup> in the case of covered bond programmes with primary assets under Section 70(1)(a) or (b);
- (b) 10% in the case of covered bond programmes with primary assets as defined in Section 70(1)(c) or (d).

(3) Banks that are issuers of covered bonds can have a coverage ratio higher than the levels stipulated under paragraph 2; this is without prejudice to the coverage requirements laid down in paragraph 4.

(4) In the individual issue conditions for covered bonds, the bank that is the issuer of covered bonds can specify a higher coverage ratio than the one stipulated in paragraph 2; a bank that issues covered bonds in this way shall maintain the higher coverage ratio for the entire related covered bond programme until the related covered bond issue has been redeemed in full. If a bank that is the issuer of covered bonds specifies several higher coverage indicators for different issues, it must maintain the highest coverage indicator for the entire corresponding covered bond programme until the covered bond issue with the highest coverage ratio has been redeemed in full. Banks that are issuers of covered bonds shall top up and continue to top up the cover pool without delay to maintain the coverage ratio in line with the first or second sentence.

(5) The calculation of the coverage ratio under paragraph 1 shall not include the bank's claims for payment or any parts thereof from assets in the cover pool under Section 68(1) in which the debtor is considered to be in default as defined in other legislation.<sup>35aab</sup> Banks that are issuers of covered bonds must remove receivables or any parts thereof that fall under the first sentence from the cover pool and have them deleted from the covered bond register without delay following the default of the debtor.

## **Section 70**

### **Primary assets**

(1) Primary assets are the dominant assets that determine the nature of the cover pool and comprise the following categories:

- (a) assets that are eligible pursuant to other legislation<sup>61b</sup> that the bank that is the issuer of covered bonds has registered in the covered bond register at the bank's discretion, provided that the bank that is the issuer of covered bonds meets the requirements of other legislation;<sup>61c</sup>
- (b) assets that are eligible pursuant to other legislation<sup>61d</sup> that establish a claim for payment for the bank that is the issuer of the covered bonds from mortgage loans secured by security interests in real properties under Section 71(1) that are residential or commercial real property and which the bank has registered in the covered bond register at the bank's discretion, provided that the bank that is the issuer of the covered bonds meets the requirements of other legislation;<sup>61c</sup>
- (c) assets that establish a claim for payment for the bank that is the issuer of the covered bonds from mortgage loans secured by security interests or other security rights over real estate in accordance with Section 71(1) and (2) which the bank has registered in the covered bond register at the bank's discretion;
- (d) assets in the form of loans to or guaranteed by public undertakings, subject to paragraphs 7 and 8, which the bank has registered in the covered bond register at the bank's discretion;

(2) The primary assets under paragraph 1(a) and (d) include claims for payment of the bank that is the issuer of the covered bonds and any collateral securing such claims. In addition to the claims for payment of a bank that is the issuer of the covered bonds, primary assets under paragraph 1(b) and (c) also include security interests or other security rights in real properties referred to in Section 71(1) or (2) used to secure these claims. Banks that are issuers of covered bonds must assess the enforceability of claims for payment, security interests and other security rights before including them in the cover pool.

(3) Primary assets under paragraph 1(a) and (b) must make up at least 90% and primary assets under paragraph 1(c) and (d) must make up at least 80% of the aggregate principal amount of the covered bonds covered by such primary assets in the related cover pool. Each covered bond programme of a bank that is the issuer of covered bonds can include only one of the primary asset types referred to in paragraph 1.

(4) For calculation of the coverage ratio under Section 69, the primary asset values shall be determined based on the residual nominal value of each claim for payment and for other purposes primary asset values shall be determined based on the residual nominal value of the individual claims and the aliquot interest income.

(5) If a primary asset is deleted from the covered bond register for a reason other than repayment of a loan, exceeding the 30-year maturity period for a mortgage loan provided to a consumer under other legislation<sup>61e</sup> or for reasons referred to in Section 69(5) or Section 71(4), second sentence, deletion from the covered bond register requires the consent of the covered bond programme administrator including specification of the reason for such deletion by the bank that is



the issuer of the covered bonds. The bank shall delete the data referred to in the first sentence from the covered bond register no later than 30 days after consent is granted by the covered bond programme administrator. Deletion of a primary asset from the covered bond register as referred to in the first sentence without the consent of the covered bond programme administrator shall be null and void.

(6) For any reasons on the side of the bank that is the issuer of covered bonds or of its legal successors, early repayment of its claims from mortgage loans under paragraph 1 may not be demanded, including even where the bank that is the issuer of the covered bonds or its legal successors are wound up and liquidated; this does not apply in the conversion into money of bankruptcy assets of a bank that is the issuer of covered bonds after the termination of the operation of an undertaking by the bankruptcy administrator in accordance with other legislation<sup>28a</sup> if the claims for payment from loans referred to in paragraph 1 cannot be converted into money before the termination of the operation of such bank's undertaking.

(7) For the purposes of this part of the act, a public undertaking is a legal person established by law or a commercial company in which the state or a territorial self-government authority directly or indirectly controls at least 51% of the share capital of, or the voting rights in, the commercial company or legal person, or can exercise an influence over the management of the commercial company or legal person that is comparable to the influence provided by such a shareholding; for this purpose, indirect control means control exercised through intermediary legal persons in which the controlling entity has indirect control of at least 51% of the share capital.

(8) For an asset to be included in a cover pool as a primary asset under paragraph 1(d), the following conditions must be met:

- (a) the public undertakings provide public services on the basis of a licence, a concession contract or other form of entrustment granted by a public authority or territorial self-government authority;
- (b) the public undertakings are subject to supervision;<sup>62aa</sup>
- (c) the public undertakings have sufficient revenue generating powers, which are ensured by the fact that such public undertakings:
  1. have adequate flexibility to collect and to increase fees, charges and receivables for the service provided in order to ensure their financial soundness and solvency;
  2. receive sufficient grants under other legislation<sup>62ab</sup> in order to ensure their financial soundness and solvency in exchange for providing essential public services; or
  3. have entered into a profit and loss transfer agreement with a public authority.

(9) The primary assets used by a bank that is the issuer of covered bonds may include assets belonging to the bank's subsidiary or another bank provided that they meet the definition in paragraph 1 and they have been transferred or provided to the bank under a contract on financial collateral meeting the requirements laid down by other legislation.<sup>53a</sup>

(10) If a bank that is the issuer of covered bonds uses assets originated by a subsidiary as referred to in paragraph 9, the bank must assess the credit-granting standards of the subsidiary or itself perform a thorough assessment of the debtor's creditworthiness.

## **Section 71**

### **Requirements for real properties used to secure primary assets**

(1) A real property used to secure primary assets under Section 70(1)(b) and (c) must meet the following requirements:

- (a) the real property is located in the territory of the Slovak Republic;

- (b) in the case of residential property, it meets the requirements laid down by other legislation;<sup>62a</sup>
- (c) it shall not be encumbered by another security interest or transfer restriction in addition to security interests and transfer restrictions in accordance with other legislation.<sup>63</sup>

(2) At the time of registration in the covered bond register in accordance with Section 68(2), the outstanding principal of the corresponding mortgage loan under Section 70(1)(c), together with the eligible security interests under paragraph 1(c), shall not exceed 70% of the value of real property collateral in the case of residential or commercial real property.

(3) The provisions of paragraph 2 do not apply to mortgage loans under Section 70(1)(c) if these mortgage loans meet the definition in Section 70(1)(b) but do not meet the percentage limits laid down by other legislation<sup>61d</sup> provided that neither a security interest permitted under paragraph 1(c) nor the outstanding principal of the mortgage loan under Section 70(1)(c) exceeds the value of the real property collateral.

(4) In the case of primary assets under Section 70(1)(c), if the value of the real property collateral falls to the level of the current outstanding principal of the mortgage loan under Section 70(1)(c), the claim for payment under this mortgage loan shall be counted in the primary assets only up to an amount not exceeding the percentage limits for the value of real property collateral laid down in paragraph 2 or the value of the security interest including prior security interests, whichever is lower. In the case of primary assets under Section 70(1)(b) and (c), if the value of real property collateral falls below the level of the outstanding principal of the mortgage loan under Section 70(1)(b) and (c), the claim for payment under this mortgage loan shall be excluded from the primary assets and the bank that is the issuer of the covered bonds shall delete the asset from the covered bond register without delay.

(5) A bank issuing covered bonds shall value real property referred to in paragraph 1 at the time of the inclusion of primary assets under Section 70(1)(b) and (c) in the cover pool at a level based on an overall assessment of the real property concerned using the current market value<sup>63a</sup> or the mortgage lending value<sup>63b</sup> or at a lower level. A bank issuing covered bonds shall only be bound by its own real property valuation. A valuer taking part in valuation under the second sentence must meet the requirements laid down in paragraph 6. In determining the value of real property, a bank that is a covered bond issuer shall take into account prudential assessment of its future marketability, long-term value sustainability, market conditions and how the real property is used. The value of real property referred to in paragraph 1 shall be documented in a transparent, verifiable and comprehensible manner. In a valuation of property referred to in the first sentence, the valuer shall not consider speculative elements.

(6) Valuers referred to in paragraph 5, third sentence, shall be independent from the credit decision process for mortgage loans and shall be appraisal experts in accordance with other legislation<sup>63c</sup> or professionally qualified for internal appraisal; a person shall be deemed professionally qualified for internal appraisal if they have higher education in civil engineering and two years of experience in the field.

(7) Banks that are issuers of covered bonds shall continuously monitor and regularly re-evaluate their value of the real property collateral in accordance with other legislation.<sup>64</sup>

(8) Banks that are issuers of covered bonds shall have in place procedures to monitor whether real property under paragraph 1 is adequately insured against the risk of damage and whether the insurance claim is included in the primary assets in the related cover pool until the payment of the

bank's receivable for the primary asset. The provisions of this part of the Act and other legislation<sup>61aa</sup> apply *mutatis mutandis* to the insurance claim.

## **Section 72**

### **Substitution assets**

(1) Substitution assets are cover assets that contribute to the coverage requirements, other than primary assets, in the following asset types:

- (a) deposits with Národná banka Slovenska, the European Central Bank or another central bank of a Member State, and debt certificates of the European Central Bank,<sup>64b</sup>
- (b) cash;
- (c) treasury bills issued by the Slovak Republic or debt securities issued by a Member State;
- (d) debt securities, deposits with or debt certificates of the central bank of a third country or exposures to multilateral development banks and international organisations that qualify for the credit quality step 1 as set out in other legislation;<sup>64b</sup> or
- (e) deposits in a bank, foreign bank or foreign bank branch with an original maturity period longer than 100 days and debt securities issued by a bank, foreign bank or foreign bank branch that qualify for the credit quality step 1 or 2 as set out in other legislation<sup>64c</sup> except for intragroup deposits and covered bonds.

(2) Substitution assets under paragraph 1 must not exceed 10% of the aggregate principal amount of the covered bonds to whose coverage they contribute when the cover pool contains primary assets referred to in Section 70(1)(a) or (b), and 20% of the aggregate principal amount of the covered bonds to whose coverage they contribute when the cover pool contains primary assets referred to in Section 70(1)(c) or (d).

(3) Coverage ratio calculations under Section 69 shall use a valuation of substitution assets based on the lower of their fair value and their nominal value, whereas in other cases the valuation of securities shall be based on their fair value including the aliquot interest income and the valuation of other substitution assets shall be based on their nominal value including the aliquot interest income.

## **Section 73**

### **Hedging derivatives**

(1) Hedging derivatives are derivatives<sup>65</sup> whose purpose is to manage and mitigate currency risk or interest rate risk associated with an issue of covered bonds. Banks issuing covered bonds must remove hedging derivatives from the cover pool when the risk under the first sentence ceases to exist.

(2) Hedging derivatives must be adequately documented and meet the eligibility criteria for an effective hedging relationship under other legislation.<sup>66</sup>

(3) If a bank that is a covered bond issuer conducts transactions aimed at mitigating currency risk or interest rate risk deriving from a net open currency position or interest rate position between the issued covered bonds and the assets in the cover pool, it shall include these hedging derivatives and the associated financial flows, as well as their collateral, in the cover pool.

(4) In calculating the value of the cover pool, the hedging derivatives should be included as follows:

- (a) hedging derivatives used to mitigate currency risks shall be valued at fair value;
- (b) hedging derivatives used to manage and mitigate interest rate risks associated with substitution

assets shall be valued at fair value;

- (c) hedging derivatives used to mitigate interest rate risks associated with primary assets and covered bonds shall not be included in the calculation of the value of the cover pool.

(5) Notwithstanding the provisions of an agreement governing hedging derivatives, the introduction of receivership, resolution, winding-down or bankruptcy in relation to a bank that is a covered bond issuer shall not be considered a reason to terminate a transaction, realise collateral or perform the final settlement of profits and losses if the bank that is a covered bond issuer or the relevant administrator continues to manage the cover pool and discharge their main contractual obligations, including the processing of payments, fulfilment of obligations and provision of collateral.

## **Section 74**

### **Liquid asset buffer**

(1) A bank that is an issuer of covered bonds must at all times cover net liquidity outflows from its covered bond programme with a liquid asset buffer whose value is at least equal to the maximum cumulative net liquidity outflow over the next 180 days, unless paragraph 5 or Section 82(6) to (13) provide otherwise; these liquid assets shall form the part of the cover pool referred to in Section 68(1)(d) Net liquidity outflow means all payment outflows falling due on one day, including principal and interest payments and payments under hedging derivative contracts of the covered bond programme, net of all payment inflows falling due on the same day for claims related to the cover assets referred to in Section 68(1).

(2) Liquid asset buffers shall include the following liquid asset types:

- (a) assets qualifying as level 1, level 2A or level 2B assets pursuant to other legislation<sup>66a</sup> that are valued in accordance with that legislation<sup>66a</sup> and are not issued by the credit institution issuing the covered bonds itself, its parent undertaking, other than a public sector entity that is not a bank, its subsidiary or another subsidiary of its parent undertaking or by a securitisation special purpose entity with which the bank issuing covered bonds has close links;
- (b) short-term exposures to banks that qualify for credit quality step 1 or 2, or short-term deposits to banks that qualify for credit quality step 1 or 2, in accordance with other legislation.<sup>66aa</sup>

(3) The valuation of securities included in a liquid asset buffer is based on their fair value including the aliquot interest income, unless paragraph 4 stipulates otherwise, and the value of other assets included in a liquid asset buffer is based on their nominal value; this also applies to the calculation of the coverage of the maximum cumulative net liquidity outflow from the covered bond programme by the liquid asset buffer referred to in paragraph 1.

(4) The value of the liquid asset buffer is included in the coverage ratio and in its calculation in accordance with Section 69, securities in the liquid asset buffer are valued based on the lower of their nominal value or their fair value including the aliquot interest income.

(5) If a bank that is an issuer of covered bonds has harmonised maturities of inflows and outflows within a covered bond programme during the entire period of the following 180 days, it need not maintain a liquid asset buffer as defined in paragraph 1. To have harmonised maturities as referred to in the first sentence, the bank that is the issuer of the covered bonds must ensure the following:

- (a) the maturity of payment inflows related to the covered bond programme before payment outflows related to the covered bond programme;
- (b) the receipt of payment inflows related to the covered bond programme whose value is equal to or

- greater than the scheduled payment outflows related to the covered bond programme;
- (c) inclusion of payment inflows related to the covered bond programme in the cover pool in accordance with paragraph 2 until the maturity of payment outflows related to the covered bond programme.

(6) If a bank that is an issuer of covered bonds maintains multiple covered bond programmes, it shall calculate individual liquid asset buffer values for each covered bond programme.

### **Section 75** **Covered bond register**

(1) A bank that is a covered bond issuer shall register the cover pool, the issued covered bonds and its liabilities and costs under Section 68(3) in the covered bond register.

(2) A bank that is covered bond issuer shall record in the covered bond register the values of assets making up the cover pool, together with the values of the associated rights and obligations from the covered bond programme in the scope of coverage under Section 69 for the entire covered bond programme. A bank that is an issuer of covered bonds may record in the covered bond register the values of assets making up the cover pool, together with the values of the associated rights and obligations from the covered bond programme, broken down by the individual covered bond issues in the scope of coverage under Section 69 for each individual issue; this does not apply to liquid assets, which may be entered into the covered bond register for the entire covered bond programme. The entry of a security interest established in a real property as collateral in the covered bond register shall be not affect the entry of a security interest in the real property in the Land Register under other legislation.<sup>66b</sup>

(3) A bank that is a covered bond issuer shall be responsible for the accuracy, completeness and currency of the information registered in the covered bond register. A bank issuing covered bonds shall, without delay, correct in the covered bond register any incorrect, incomplete or out-of-date information and immediately notify the covered bond programme administrator.

(4) A bank that is a covered bond issuer shall store the covered bond register and the documents supporting the data registered therein separately from other documents and protect them from misuse, destruction, damage, theft or loss.

(5) A bank that is a covered bond issuer shall maintain a separate analytical record of covered bonds transactions and assets in the cover pool in its accounting system.

(6) In its decree promulgated in the Collection of Laws, Národná banka Slovenska may stipulate:

- (a) the structure, scope and sections of the covered bond register and of the register of mortgages under Section 122ya(9);
- (b) data to be kept in the covered bond register and in the register of mortgages under Section 122ya(9), including their scope, content, structure, deadlines, the form, format, method and procedure of their entering into the covered bond register and into the register of mortgages under Section 122ya(9), as well as their updating and storing in these registers;
- (c) the method, rationale, procedure and technical standards of removing assets from the cover pool, deleting data from the covered bond register and storing these data.
- (d) the method, procedure, technical standards and control mechanisms for maintaining these registers and storing documents related to the covered bond programme;

- (e) the recording of liquidity coverage indicators, including procedures for their calculation based on the data from the covered bond register;
- (f) the scope, content, method, form and deadlines relating to the reporting of data for the covered bond register and the register of mortgages under Section 122ya(9);
- (g) the methodology for maintaining the covered bond register and the register of mortgages under Section 122ya(9), as well as the methodology for recording data in these registers and for submitting data from the registers in accordance with points (a) to (e).

### **Section 76** **Stress testing**

(1) A bank that is a covered bond issuer shall subject its covered bond programme to a stress test to identify any changes in the coverage indicator caused by potential changes in market conditions, which may negatively affect the coverage indicator.

(2) A bank that is a covered bond issuer shall conduct a stress test at least once a year, no later than 31 March of the following calendar year, using the data as of 31 December of the previous calendar year. The stress test shall cover the entire calendar year in which the stress test is conducted.

(3) The stress test under paragraph 1 shall target the following areas:

- (a) credit risk;
- (b) interest rate risk;
- (c) foreign exchange risk;
- (d) liquidity risk;
- (e) counterparty risk;
- (f) operational risk;
- (g) risk associated with a decrease in property prices.

(4) The parameters of the stress test set by a bank issuing covered bonds shall comply with the parameters of stress tests used to assess the internal capital adequacy in accordance with Section 27(7).

(5) The stress tests shall take into account all risk-mitigating factors.

(6) In the stress test, a bank that is a covered bond issuer shall demonstrate that it is able to maintain the coverage indicator at the level specified in Section 69(2) to (4) even during the stress period.

(7) Národná banka Slovenska may request banks issuing covered bonds to supply documents concerning the form, scope, methodology and results of stress tests carried out in the last 24 months.

### **Section 77** **Covered bond programme administrator**

(1) A bank that is a covered bond issuer shall have a covered bond programme administrator and their deputy, who supervise the compliance with the conditions related to the covered bond programme laid down in this Act and in other legislation of general application. Národná banka Slovenska shall, on its own initiative or at the proposal of a bank issuing covered bonds, assess the suitability of the administrator or their deputy proposed by the bank and appoint them. The covered bond programme deputy administrator shall represent the covered bond programme administrator in their absence in the full range of their rights and obligations.

(2) A covered bond programme administrator and/or their deputy shall be dismissed by Národná banka Slovenska on its own initiative or at the proposal of the bank issuing the covered bonds. Their function ends on the date of delivery of dismissal to the covered bond programme administrator; the same applies in relation to the termination of the function of the covered bond programme deputy administrator on their dismissal. The functions of the covered bond programme administrator and their deputy appointed for a bank issuing covered bonds are terminated on the date of the transfer of the bank's whole covered bond programme or all parts thereof to a third party or termination of the operation of the enterprise in accordance with other legislation.<sup>61aa</sup>

(3) A covered bond programme administrator and their deputy shall be natural persons who are professionally competent for this activity and have no criminal record. A natural person is deemed professionally competent if they have completed university education and have at least five years' experience in economics or law in the banking sector. A natural person is deemed to have no criminal record if that person has not been convicted by a final judgement of any crime committed in connection with the performance of managerial duties or of an intentional crime.

### Section 78

(1) A covered bond programme administrator shall perform their duties on their own, independently and impartially. In pursuing their activity, a covered bond programme administrator shall be bound by legislation of general application, their contract to perform the tasks of a covered bond programme administrator and decisions issued in the course of supervision of the activities of a covered bond programme administrator and of the activities of the bank that is a covered bond issuer related to a covered bond programme. In performing their duties, a covered bond programme administrator shall act in their own name, for the account of the bank that is the covered bonds' issuer.

(2) Any disputes between a covered bond programme administrator and a bank that is the relevant covered bonds' issuer shall be settled by Národná banka Slovenska.

### Section 79

(1) A covered bond programme administrator shall supervise the issuance of covered bonds under other legislation<sup>61</sup> with regard to their elements and coverage requirements defined in this Act.

(2) Prior to the issue of covered bonds, a covered bond programme administrator shall issue a written certificate testifying that they are covered in accordance with this Act.

(3) The covered bond programme administrator shall verify whether the bank that is the relevant covered bonds' issuer meets the obligations related to the covered bond programme stipulated in this Act and other legislation of general application.

(4) In exercising supervision, a covered bond programme administrator shall monitor and verify that:

- (a) the total nominal value of the issued covered bonds, including the aliquot interest income, is covered by assets in the cover pool at least to the level of the coverage indicator defined in Section 69;
- (b) a bank that is the covered bonds' issuer complies with the requirements regarding the structure of the cover pool as defined in this Act;
- (c) the assets that make up the cover pool and are registered in the covered bond register meet the criteria laid down in this Act;

- (d) the agreement governing hedging derivatives in the cover pool contains the provisions laid down in Section 73(5);
- (e) the estimated obligations under Section 68(3)(b) are justified;
- (f) the real properties used to secure the primary assets meet the requirements laid down in Section 71;
- (g) a bank that is the covered bonds' issuer stores the covered bond register and documents supporting the data registered therein separately from other documents and protects them from misuse, destruction, damage, theft or loss;
- (h) a bank that is the covered bonds' issuer maintains a separate analytical record of the corresponding transactions in its accounting system.

(5) A covered bond programme administrator shall, at the request of the bank that is the issuer of the covered bonds, cooperate in the performance of activities related to the covered bond programme, which the bank that is the issuer of the covered bonds is unable to perform alone.

(6) Every year before 30 April, a covered bond programme administrator shall submit to Národná banka Slovenska a report on the covered bond programme for the previous year, containing the information concerning:

- (a) the number, volume, yields and maturities of the issued covered bond issuances;
- (b) the volume of assets in the cover pool and the volume of covered bonds in euros or in a foreign currency;
- (c) the structure of the cover pool under Section 68(1);
- (d) the coverage indicator under Section 69(2) and (3) or the coverage indicator under Section 69(4), if applicable;
- (e) the average amount and maturity of primary assets, as well as the fixation period and the weighted interest rate;
- (f) the volume of non-performing mortgage loans and the volume of mortgage loans removed from the cover pool;
- (g) the reasons for significant changes in the topping-up or removing of cover pool assets;
- (h) the structure of real properties used to secure primary assets in the cover pool, broken down to family houses, apartments, building plots and buildings under construction;
- (i) the proportional distribution of real properties used to secure primary assets, broken down by the regions of the Slovak Republic and by the LTV ratio;
- (j) the calculation method and the amount of estimated obligations or costs under Section 68(3) incurred by the bank that is the covered bonds' issuer;
- (k) the methodology and results of stress tests;
- (l) the activities of the covered bond programme administrator and the supervisory activities of Národná banka Slovenska related to the covered bond programme for the previous year;
- (m) other facts related to the operation of a bank that is the covered bonds' issuer.

(7) A bank that is a covered bond issuer shall publish the report under paragraph 6 on its website and notify Národná banka Slovenska in advance.

(8) A covered bond programme administrator shall be responsible for the content, accuracy, completeness and currency of the report on the covered bond programme.

(9) The covered bond programme administrator shall continue in their activities in accordance with the provisions of this Act even if the bank issuing covered bonds is placed in receivership, resolution or under adjudication of bankruptcy. The covered bond programme administrator shall coordinate activities under the first sentence and exchange information with Národná banka Slovenska, the Resolution Council and the competent administrators.



## Section 80

(1) Upon identification of deficiencies or infringements of this Act related to a covered bond programme, the covered bond programme administrator shall, without delay, notify Národná banka Slovenska. Section 93 does not apply to the provision of information under this paragraph.

(2) If the covered bond programme administrator finds any shortcomings or breaches in compliance with Section 79(4)(a) to (c) and (f), they must, without delay, instruct the bank to top up the cover pool or take corrective action.

(3) The covered bond programme administrator shall cooperate with the competent administrator in the procedure under Section 55(8) and procedures under other legislation.<sup>66ba</sup>

(4) A bank that is a covered bond issuer shall allow the covered bond programme administrator to perform their tasks, in particular it shall allow them to inspect the accounting records, documents related to the cover pool and other documents related to the covered bond programme.

(5) The amount of the remuneration for the covered bond programme administrator and their deputy shall be set by Národná banka Slovenska upon agreement with the bank issuing the covered bonds. The remuneration under the first sentence shall be paid by the bank that is the covered bonds' issuer.

(6) A bank that is a covered bond issuer shall conclude with the covered bond programme administrator a contract on performance of the tasks of a covered bond programme administrator, detailing the rights and duties of the bank and the covered bond programme administrator. A bank that is a covered bond issuer shall conclude with a covered bond programme deputy administrator a contract on performance of the tasks of a covered bond programme deputy administrator, detailing the rights and duties of the bank and the covered bond programme deputy administrator.

(7) The activities of a covered bond programme administrator and their deputy are subject to supervision by Národná banka Slovenska under this Act. Národná banka Slovenska shall keep a list of covered bond programme administrators and covered bond programme deputy administrators for the individual banks that are covered bond issuers; this list and the procedures applied in its keeping are subject to other legislation.<sup>66c</sup>

(8) A bank that is a covered bond issuer shall bear liability for any damage caused to the holders of covered bonds as result of entering incorrect or inaccurate data into the covered bond register. The covered bond programme administrator and their deputy shall bear joint and several liability for the conformity of information in the covered bond register with this Act.

## Section 81

### Covered bond supervision

(1) Covered bond issuance and administration is subject to supervision by Národná banka Slovenska in accordance with this Act and other legislation.<sup>89</sup>

(2) If a bank issuing covered bonds is placed in resolution, Národná banka Slovenska shall coordinate with the Resolution Council, exchange reciprocal information with it and cooperate with it to ensure that the rights and interests of the covered bond investors are preserved, including at least

by verifying the continuous and sound management of the covered bond programme during the period of the resolution process.

(3) In supervising banks that are issuers of covered bonds, Národná banka Slovenska shall cooperate with the competent supervisory authorities of other Member States, with competent authorities supervising covered bonds in other Member States, the European supervisory authority (European Banking Authority) and the European supervisory authority (European Securities and Markets Authority) Národná banka Slovenska will exchange all relevant information with competent authorities supervising covered bonds in other Member States on request, and at their own initiative will send them all and any information that could materially influence the assessment of an issue of covered bonds in the receiving Member State.

(4) A bank that is an issuer of covered bonds is obliged to report to Národná banka Slovenska once a year information on at least the following:

- (a) the eligibility of assets and cover pool requirements in accordance with Sections 68 to 73;
- (b) the segregation of cover assets in accordance with Section 68(2) to (6) and other legislation;<sup>61aa</sup>
- (c) conformity with the requirements under Section 68(1), (3) and (4), Section 69 and Section 73(4);
- (d) the liquid asset buffer as defined in Section 74.

(5) A bank that is an issuer of covered bonds must also provide information under paragraph 4 to Národná banka Slovenska on request, in the scope and period that it stipulates, even when the bank is in resolution or unable to settle its obligations in a timely manner.

(6) Národná banka Slovenska shall keep and publish on its website lists of the following information:

- (a) banks granted prior approval under Section 28(1)(f);
- (b) covered bonds eligible to use the label “European Covered Bond” under Section 67(2)(a); and
- (c) covered bonds eligible to use the label “European Covered Bond (Premium)” under Section 67(2)(b).

(7) For the purposes of this part of this Act, Národná banka Slovenska shall keep up to date the lists under paragraph 6 and information under Section 6(20)(a).

(8) Národná banka Slovenska shall notify the European supervisory authority (European Banking Authority) of the lists under paragraph 6 on an annual basis.

## **Section 82**

### **Transfer of a covered bond programme and extension of the maturity period of a covered bond issue**

(1) A bank that is a covered bond issuer may transfer a covered bond programme to a third party, which must be a bank or several banks; this shall be without prejudice to the provisions of paragraphs 3 to 6 hereof, Section 28, Section 50(1)(w) and Section 55(8) to (10). A bank that is a covered bond issuer shall, in cooperation with the covered bond programme administrator, notify Národná banka Slovenska without delay regarding its intention to transfer a covered bond programme or a part thereof. Prior approval of Národná banka Slovenska under Section 28(1)(g) shall be a prerequisite for the validity of an agreement on the transfer of a covered bond programme or a part thereof or any other agreement serving this purpose other than transfer in accordance with other legislation,<sup>62</sup> otherwise such an agreement shall be null and void.

(2) For the transfer of a covered bond programme or a part thereof to be valid and effective, the holders of the covered bonds must give consent, in accordance with other legislation,<sup>52a</sup> for the change of issue conditions for the covered bonds consisting of a change in the issuer of covered bonds as a result of the transfer of the covered bond programme or a part thereof; this does not apply to procedures under Section 55(8) to (10) or under other legislation.<sup>66d</sup> The consent of the debtors of liabilities corresponding to claims that form primary assets under Section 70 shall not be required for the transfer of the covered bond programme to be valid and effective. The transfer of a covered bond programme or a part thereof is governed by the provisions of the Commercial Code concerning the sale of an enterprise or a part thereof;<sup>28</sup> the transfer of a covered bond programme shall not require a transfer of the enterprise's human capital or any part thereof.<sup>28b</sup> Upon completion of the transfer of a covered bond programme or a part thereof the creditor may not seek a declaration of ineffectiveness of the transfer or transition of such liability from the seller to the buyer where the obligation towards the creditor forms a part of the transfer of the covered bond programme or the corresponding part thereof.<sup>28c</sup> The transfer of a covered bond programme or a part thereof shall be recorded in the Commercial Register as other legal information<sup>66e</sup> on the bank that is the issuer of the covered bonds concerned. A bank that is a covered bond issuer shall submit to the competent court a proposal to record the transfer of a covered bond programme or a part thereof immediately upon completion of the transfer. The seller of a covered bond programme or a part thereof shall, without delay, demonstrably notify the holders of covered bonds of the assumption of liabilities by the buyer of the covered bond programme or a part thereof, and notify the debtors of liabilities corresponding to claims forming the primary assets under Section 70 of the transition of such claims to the buyer; the validity and effectiveness of the transfer of a covered bond programme or a part thereof are not conditional upon these notification duties.

(3) From the date of delivery to Národná banka Slovenska of written notification regarding the intention to transfer a covered bond programme from a bank issuing covered bonds under paragraph 6 to a third party under the same conditions as laid down in Section 55(8) to (10) or in other legislation,<sup>66f</sup> obligations under Section 68(3)(a) shall be discharged as follows:

- (a) during the first month, the bank that is the issuer of the covered bonds shall discharge its obligations under Section 68(3)(a) within their original maturities and in the full amount;
- (b) from the second until the twelfth month, the bank that is the issuer of the covered bonds shall discharge within the original maturities and in full only interest payments from covered bonds; if the residual maturity of a covered bond issuance is shorter than 11 months, the original maturity of the covered bond issue shall be extended by 12 months, with other issue conditions, including the method of determining yields, applying also during the extended maturity period of the covered bond issue.

(4) From the date of delivery to Národná banka Slovenska of a written application submitted by the competent administrator for a further 12-month extension of the period for the transfer to a third party of a covered bond programme under paragraph 6 under the same conditions as those laid down in Section 55(8) to (10) or other legislation,<sup>66f</sup> obligations under Section 68(3)(a) shall be discharged as follows:

- (a) during the additional 12 months, the bank that is the issuer of the covered bonds shall discharge within the original maturities and in full only interest payments from the covered bonds; if the residual maturity of a covered bond issue is shorter than 12 months, the original maturity of the covered bond issue shall be extended by 12 months, with other issue conditions, including the method of determining yields, applying also during the extended maturity period of the covered bond issue;
- (b) the extension of the maturity period of a covered bond issue by an additional 12 months also applies to covered bond issues with maturity in the previous 11 months that were covered by paragraph 3(b).

(5) If Národná banka Slovenska does not issue prior approval under Section 28(1)(g), the extension of maturity of a covered bond issue initiated by the delivery of a notification under paragraph 3 or an application under paragraph 4 shall end on the day of delivery of the decision rejecting the application for prior approval; if the competent administrator does not submit an application for prior approval under Section 28(1)(g), the extension of maturity of an issuance shall end with the lapsing of the period defined in paragraph 3(b) or paragraph 4. If, originally, the covered bond issue was to become payable before the end of the extended maturity period, the covered bond issue shall become payable on the day when the extended maturity period of the covered bond issue ends; other issue conditions, including the method of determining yields, also apply during the extended maturity period of the covered bond issue.

(6) The provisions of paragraphs 3 to 5 shall only apply to banks that have issued covered bonds and are in receivership or under an adjudication of bankruptcy.

(7) If a proposal to commence resolution proceedings against a bank that is an issuer of covered bonds is submitted in accordance with other legislation<sup>66g</sup> or resolution proceedings are to be commenced without a proposal or there are already resolution proceedings against the bank, the covered bond programme administrator shall notify Národná banka Slovenska in writing of an extension of the maturity period of a covered bond issue after a decision of the Resolution Council.

(8) If the time to maturity of a covered bond issue is less than 12 months from the delivery date of the written notification referred to in paragraph 7, the maturity period of these bonds can be extended by at most 12 months counting from the date of delivery of the notification. Extension of the maturity period of a covered bond issue does not apply to the interest payments from the covered bonds, which the bank is obliged to pay on the original due dates in the full amount; other issue conditions, including the method of determining yields, also apply during the extended maturity period of the covered bond issue.

(9) If the Resolution Council rejects a proposal to commence resolution proceedings or submits a petition under other legislation,<sup>66h</sup> the extension of the maturity period of the covered bond issue ends on the date of the delivery of the decision to the bank or the submission of the petition. If, originally, the covered bond issue was to become due before the end of the extended maturity period, the covered bond issue shall become payable on the day when the extended maturity period of the covered bond issue ends; other issue conditions, including the method of determining yields, also apply during the extended maturity period of the covered bond issue.

(10) Extensions of the maturity periods of covered bond issues under paragraphs 3, 4, 8 or 9 must not result in a change in the order of maturities of covered bond issues from the original order. In a procedure under paragraph 3, 4 or 8, the competent administrator may add up to 12 months to the maturity period of covered bond issues with a remaining time to maturity greater than 12 months from the date of delivery of written notice under paragraph 3 or 7 or a written application under paragraph 4, if the original order of maturity of the covered bond issues would be affected by a procedure under paragraph 3(b), 4 or 8. During such an extended maturity period of a covered bond issue, the bank issuing the covered bonds is obliged to settle only interest payments on the original dates in the full amount and other issue conditions, including the method of determining yields, will apply during the extended maturity period of the covered bond issue.

(11) In a notice under paragraph 3 or 7, or an application under paragraph 4, the competent administrator shall set out the schedule of all extended maturity periods of covered bond issues.

(12) On the same day as delivering to Národná banka Slovenska a written notice under paragraph 3 or 7, or a written application under paragraph 4, the competent administrator shall publish on the website of the bank that issued the covered bonds the ISIN<sup>35aaa</sup> of any covered bond issue whose maturity period is to be extended based on the document sent to Národná banka Slovenska and the schedule referred to in paragraph 11. The competent administrator shall also publish the information under the first sentence in a nationwide daily newspaper that publishes stock market reports at least once a week within seven calendar days from the delivery to Národná banka Slovenska of notification of the intention to transfer the covered bond programme.

(13) Národná banka Slovenska shall publish the information referred to in the first sentence of paragraph 12 by the end of the working day following delivery to Národná banka Slovenska of the written notice under paragraph 3 or 7, or written application under paragraph 4.

(14) References to a bank as the issuer covered bonds or banks issuing covered bonds shall be understood to refer also to any bank to which the covered bond programme of another bank is transferred.

## **DIVISION THIRTEEN LOANS FOR YOUNG MARRIED COUPLES**

### **Section 88a**

(1) Where the borrowers under a loan agreement are a married couple and none of the spouses is older than 35 years and the marriage has lasted for maximum two years (hereinafter a 'young married couple') as at the date when they apply for a loan (hereinafter 'loan for young married couples'), the borrowers shall, under the terms and conditions laid down in this Act, be entitled to receive an interest subsidy from the state budget (hereinafter 'state interest subsidy for young married couples').

(2) 'State interest subsidy for young married couples' means a percentage by which the State reduces the rate of interest set in a loan agreement made between a bank and a young married couple. The percentage of a state interest subsidy for young married couples shall remain unchanged throughout the loan repayment period, as agreed when the loan agreement with the young married couple is concluded. Such state interest subsidy for young married couples for loan agreements concluded in individual calendar years shall be specified in percentage terms in the State Budget Act for the corresponding fiscal years. The value of a state interest subsidy for young married couples shall be rounded up to the nearest whole euro cent.

(3) A young married couple shall be granted a state interest subsidy for young married couples if:

- (a) as at the date when they file an application for a loan for young married couples, the spouses together have an average monthly income, calculated from their income in the calendar year preceding the year of application for a loan for young married couples, of no more than 2.6 times the average monthly nominal wage of an employee in the Slovak Republic's national economy, as ascertained by the Statistic Office of the Slovak Republic for the calendar quarter preceding the calendar quarter in which the application for a loan for young married couples is submitted;
- (b) the bank or foreign bank branch undertakes to reduce the interest rate fixed in the loan agreement with the young married couple, starting from when the loan is provided to the young married couple and interest is first charged thereon and throughout the loan repayment period, by at least

one half of the state interest subsidy for newly married couples determined in accordance with paragraph 2;

(c) the application for a loan for a young married couple was filed on or after 1 April 2010.

(4) For the purposes of calculating the state interest subsidy for a foreign currency loan provided to a young married couple, the amount of the loan shall be converted at the reference exchange rate set and published by the European Central Bank or Národná banka Slovenska,<sup>31</sup> and effective as at the date when the loan agreement with the young married couple is concluded.

(5) A state interest subsidy for young married couples shall be granted for loans not exceeding EUR 10,000.

(6) Loans, including interest, provided to young married couples eligible for a state interest subsidy for young married couples are normally agreed to be repaid in regular monthly instalments. Where the repayment of a loan by a young married couple is agreed differently, the amount of funds granted in form of a state interest subsidy for young married couples shall not exceed the amount that would be granted as a state interest subsidy for young married couples with that loan if it were to be repaid in monthly instalments.

### **Section 88b**

(1) A state interest subsidy for young married couples shall be claimed by a young married couple from the state budget in an application submitted to a bank or a foreign bank branch.

(2) A state interest subsidy for young married couples shall be granted to a young married couple in each year of the loan repayment period as agreed when the loan agreement with the young married couple was concluded, provided that it is granted for one loan only. Any amendment to a loan agreement with a young married couple increasing the loan amount up to the limit defined in Section 88a(5) shall be deemed to be the same loan agreement with the young married couple in question.

(3) Where a young married couple concludes more than one agreement on loans for young married couples, the state interest subsidy for young married couples shall be granted for the agreement for which a written statement to that effect is made; if such statement is made for more than one agreement on loans for young married couples in the same year, the young married couple's entitlement to a state interest subsidy shall lapse in respect of all such agreements for the next 12 calendar months, starting from the first day of the calendar month following the receipt of notification in writing from the Ministry or a legal person appointed by it of the existence of more than one agreement on loans for young married couples for which a state interest subsidy for young married couples has been claimed.

(4) A young married couple shall not be entitled to a state interest subsidy for young married couples during any period when, on grounds of the young married couple's default lasting for more than 90 days, the bank or foreign bank branch reclassifies the claim arising from the loan for married couples to such classified claims for which it is reasonably assumed that they will not be satisfied in the full amount of their nominal value.

(5) The entitlement to a state interest subsidy for young married couples shall lapse if the young married couple:

- (a) transfer the liability from a loan for young married couples to another person, except to a person close to them; a close person must, as at the date of transfer of liability, meet the conditions laid down in Section 88a(1) and (3)(a);
- (b) when entering into a loan agreement including a state interest subsidy for young married couples, submitted false information regarding the average monthly income or age;
- (c) divorce during the term of a loan agreement made for a loan for young married couples.

(6) If either or both of the spouses die, the entitlement to a state interest subsidy for young married couples shall be assigned to the person to whom the outstanding liabilities from the loan for young married couple are assigned.

(7) If a young married couple's entitlement to a state interest subsidy for young married couples lapses under paragraph 5(b), the young married couple shall forthwith return any state interest subsidy they have been granted, through the bank or foreign bank branch.

(8) The bank or foreign bank branch shall not bear any liability for the veracity of the information regarding average monthly income as referred to in Section 88a(3)(a).

### **Section 88c**

(1) The Ministry shall remit payments to banks and foreign bank branches for state interest subsidies on a monthly basis.

(2) Requests for state interest subsidy payments for young married couples for a specific month shall be submitted by banks and foreign bank branches to the Ministry no later than the 25th day of the next month.

(3) The Ministry shall remit the funds under paragraph 2 to a bank or a foreign bank branch to a special account opened for this purpose in the bank or foreign bank branch in question, by the 25th day of the month following the receipt of a request from the bank or foreign bank branch for state interest subsidies for young married couples. From that account, the bank or foreign bank branch shall draw the appropriate amounts for individual couples eligible for a state interest subsidy for young married couples on a monthly basis.

(4) Banks and foreign bank branches shall ensure the settlement of state interest subsidy payments received for young married couples for a specific year within the time limit set by the Ministry.

(5) Banks and foreign bank branches shall be responsible for:

- (a) the timely submission of claims for state interest subsidies for young married couples from the state budget;
- (b) the correct calculation of the amount of state interest subsidies for young married couples;
- (c) the return of a state interest subsidy by a young married couple in the event of non-compliance with the terms and conditions stipulated for the granting of a state interest subsidy.

### **Section 88d**

(1) A central register of loan agreements with young married couples eligible for a state interest subsidy for young married couples shall be kept by the Ministry or by a legal person it commissions to do so.

(2) Banks and foreign bank branches shall supply the Ministry or a legal person commissioned by the Ministry, on a monthly basis and in compliance with the time limits, methods and conditions agreed with the Ministry, with information on new loan agreements made with young married couples for the purposes set out in paragraph 1. Such information must contain:

- (a) the spouses' personal identification numbers;
- (b) the reference numbers of loan agreements made with young married couples;
- (c) statements of entitlement to a state interest subsidy for young married couples;
- (d) the amount of loans provided to young married couples in euro;
- (e) the amount of monthly loan repayments in euro;
- (f) the repayment dates of loans provided to young married couples;
- (g) the interest rates agreed in loan agreements made with young married couples;
- (h) the period for which claims from loans provided to young married couples have been reclassified under Section 88b(4);
- (i) the amount of a state interest subsidy for young married couples in euro.

(3) State supervision of compliance with the terms and conditions stipulated for the granting of a state interest subsidy to young married couples shall be exercised by the Ministry. The Ministry shall be entitled to request from a bank or a foreign bank branch any supporting documents needed to verify compliance with the terms and conditions stipulated for the granting of a state interest subsidy to young married couples. The provisions of other legislation<sup>72</sup> apply *mutatis mutandis* to the exercise of such state supervision.

(4) If, in exercising state supervision, the Ministry reveals any shortcomings in the operations of a bank or a foreign bank branch, consisting in non-compliance with the terms and conditions stipulated for the granting of a state interest subsidy to young married couples, it shall place the bank or foreign bank branch under the obligation to repay to the state budget any state interest subsidy illegitimately used by young married couples.

(5) In addition to the measure mentioned in paragraph 4, the Ministry may also impose on a bank or a foreign bank branch, depending on the severity and duration of non-compliance, a fine of up to twice the amount of a state interest subsidy illegitimately used by a young married couple. If the measure under paragraph 4 is not respected, a fine may be imposed repeatedly, in a total amount not exceeding the limit defined in the first sentence. Such fines shall bring in revenues for the state budget.

(6) Proceedings under paragraphs 4 and 5 are subject to the Code of Administrative Procedure.

(7) The employees and members of bodies of the Ministry or of the person it commissions under paragraph 1 shall keep confidential any facts that are associated with the pursuit of activities mentioned in paragraphs 1 to 3. This duty of confidentiality continues even after the termination of that person's commission to pursue the activity mentioned in paragraph 1, or the termination of employment or other legal relationship, or termination of office in that person's bodies; the foregoing is without prejudice to the provisions of Section 91(2) to (7), Section 92(1) to (7), and Section 93.

## **DIVISION FOURTEEN CLIENT PROTECTION AND BANKING SECRECY**

### **Section 89**



(1) Banks and foreign bank branches, pursuing banking activities in the territory of the Slovak Republic, conduct transactions for their clients on a contractual basis in accordance with the legal system of the Slovak Republic. Clients are entitled to conclude a contract in the Slovak language, as well to receive information from banks and foreign bank branches, to make submissions to banks and foreign bank branches, and to communicate with banks and foreign bank branches in any other form in the Slovak language; this shall not exclude the possibility of using any other language in parallel where this is required by another act or by a written agreement made between the bank or foreign bank branch and the client, while the client is entitled to select the decisive language, unless another act provides otherwise.<sup>72b</sup> In contracts made with their clients, banks and foreign bank branches may define the rights and duties arising from transactions in contrast with the relevant law or regulation, unless this is explicitly prohibited by any other law or regulation, or unless the relevant provisions stipulate that no deviation is allowed;<sup>72c</sup> such contract is to be made in the due form as required by law or agreed upon by the parties, while the bank or foreign bank branch concerned shall be liable for its preparation in paper form or electronically on durable media,<sup>72d</sup> no later than the day when the transaction is concluded, as well as for its storage and protection under Section 42(1).

(2) Bank and foreign bank branches shall request proof of identity from their clients in each transaction, except for those specified in paragraph 5; clients shall comply with such request in each transaction. Bank and foreign bank branches shall refuse to carry out transactions for clients on an anonymous basis.

(3) For the purposes of paragraph 2, the identity of a client can be verified on the basis of:

- (a) the client's identity document pursuant to other legislation on identity documents<sup>73</sup>; by means of electronic communication devices the identity of the client can also be verified by the client's identity document, which is an official authenticator pursuant to other legislation<sup>73aa</sup>; this is without prejudice to the provisions on identification verification as defined in other legislation;<sup>21a</sup>
- (b) the client's signature, provided that the client is known in person and the signature is identical beyond any doubt to the client's specimen signature kept at the bank or foreign bank branch and taken after the client had proved their identity using an identity document;
- (c) the identity document<sup>73</sup> of the legal representative of juvenile client who does not have an identity document; by means of electronic communication devices the identity of the juvenile client's legal representative can be verified by the legal representative's identity document, which is an official authenticator pursuant to other legislation<sup>73aa</sup>; however, in case of a juvenile client who has no identity document, in addition to verification of the identity of the juvenile client's legal representative, it is also necessary:
  - 1. to present a document to prove that the legal representative is authorised to act for and on behalf of the juvenile client, as well as the birth certificate of the juvenile client; or
  - 2. to obtain verifiable electronic data from official records to prove beyond any doubt that the legal representative is authorised to act for and on behalf of the juvenile client, including the identification data of the juvenile client;
- (d) the qualified electronic signature<sup>73ab</sup> if the client has been identified pursuant to (a) or (c);
- (e) where transactions are conducted electronically, a personal identification number or a similar code assigned by a bank or a foreign bank branch to the client, and an authentication code agreed between the bank or foreign bank branch and the client, or an electronic signature; this provision is without prejudice to the provisions as defined in other legislation.<sup>73ac</sup>

(4) Banks and foreign bank branches shall, in every transaction worth no less than EUR 15,000, determine the ownership of funds used in the transaction. For the purposes of this provision, the ownership of funds shall be determined on the basis of a binding written statement in which the client shall declare whether the funds are their property and whether the client is conducting the transaction for their own account; this written statement of ownership may be part of a written

agreement concluded between the bank or foreign bank branch and the client in connection with the agreed transaction. If the funds are owned by another person or if the transaction is conducted for the account of another person, the client's statement must specify the full name, personal identification number or date of birth, and the permanent address of the natural person, or the name, registered office address, and identification number, if assigned, of the legal person who is the owner of the funds and for whose account the transaction is conducted; in this case the client shall deliver to the bank or foreign bank branch a written approval from the natural or legal person concerned to use the funds for the transaction in question and to carry out the transaction for that person's account. The obligation to deliver a written approval in accordance with the preceding sentence does not apply to Národná banka Slovenska, the Resolution Council, banks, foreign bank branches, payment institutions, branches of foreign payment institutions, electronic money institutions, branches of foreign electronic money institutions, the stock exchange, the commodity exchange, the central securities depository, investment firms, branches of foreign investment firms, investment service intermediaries, insurance companies, branches of foreign insurance companies, reinsurance companies, branches of foreign reinsurance companies, asset management companies or branches of foreign asset management companies, if they declare in a binding written statement that they conduct transactions exclusively for their own account or for the account of their clients under another act,<sup>6</sup> and they use exclusively their own funds for these transactions or the funds of their clients they manage under another act;<sup>6</sup> this shall equally apply to pension funds management companies, supplementary pension management companies, administrators of apartment buildings and apartment owners' associations,<sup>73a</sup> if they are obliged persons under other legislation.<sup>21a</sup> Nor shall the obligation to deliver a written approval under this paragraph apply to foreign banks established in a Member State, foreign payment institutions established in a Member State, foreign electronic money institutions established in a Member State, or to foreign financial institutions established in a Member State. If a client fails to meet the requirements laid down in this paragraph, the bank or foreign bank branch concerned shall decline to carry out the requested transaction.

(5) Where a client uses an amount not exceeding EUR 2,000, banks and foreign bank branches shall not demand, unless another act<sup>21a</sup> provides otherwise, proof of the client's identity:

- (a) in transactions carried out through currency exchange machines;
- (b) in providing distance financial services;<sup>74a</sup>
- (c) in handling deposits, except when a deposit is established.

(6) The provisions of paragraphs 2 and 4 are without prejudice to the duties of banks and foreign bank branches under other legislation;<sup>21a</sup> nor shall these provisions apply to the right of banks and foreign bank branches to use third parties in determining a client's identity under another act.<sup>21a</sup>

(7) When verifying the identity of the client using the official authenticator<sup>73aa</sup> in accordance with Section 89(3), a bank and a foreign bank branch may, by means of a Joint Register of Banking Information (hereinafter 'Joint Banking Register') pursuant to Section 92a, proceed with the identification and authentication as specified in other legislation<sup>74b</sup>, including verification of the authorisation to act for and on behalf of another person. For the purpose of the first sentence, the administrators of parts of the authentication module according to other legislation<sup>74c</sup> shall assist the administrator of a Joint Banking Register according to Section 92a in order to ensure client identification and authentication using an official authenticator.<sup>73aa</sup> The Ministry of Interior of the Slovak Republic (hereinafter 'Ministry of Interior') is obliged, within the scope of data entered in the Register of Natural Persons,<sup>74d</sup> to provide a bank or a foreign bank branch with the data of the juvenile client's legal representative and of the juvenile client for the purposes of the second point of (3)(c) also by means of a Joint Banking Register as specified in Section 92a.

(8) When setting up payment accounts and their related services, the identity of a client who is a natural person granted temporary protection under other legislation<sup>74e</sup> can be verified using an identity document under paragraph 3(a). If this is not possible, the document granting or extending tolerated residence in the territory of the Slovak Republic to a natural person granted temporary protection under other legislation<sup>74e</sup> can be used as proof of identity when accompanied by another document containing the person's identifiable facial image and at least their forename, surname, date of birth, address of permanent or other residence and citizenship. Information on the client's place of permanent or other residence and their citizenship can be replaced by a statutory declaration of the client.

(9) Banks and foreign bank branches shall close payment accounts opened for the benefit of a natural person under paragraph 8 on the last day of the calendar month following the calendar month in which the natural person's temporary protection ends pursuant to other legislation<sup>74f</sup> if this natural person does not prove their identity in accordance with paragraph 3(a) by the end of the calendar month following the calendar month in which their temporary protection ends pursuant to other legislation.<sup>74f</sup>

(10) If a bank or foreign bank branch complies with the procedure under the second or third sentence of paragraph 8, it shall be deemed to be in compliance with identification verification requirements under other legislation.<sup>74g</sup>

## Section 90

(1) Banks and foreign bank branches shall notify in writing the competent tax authority according to the registered office address or permanent address of their business clients,<sup>75</sup> the number of each current or deposit account opened and closed by a current or former business client, within 10 days of the end of the calendar month in which the account was opened or closed; such information may be further disclosed by the tax authority in accordance with other legislation.<sup>76</sup>

(2) Banks and foreign bank branches shall provide information to legal entities in which the government has a 100% holding and which is involved, under a resolution of the Government of the Slovak Republic, in the assistance scheme for clients who have lost their ability to repay a housing loan as a consequence of the economic crisis (hereinafter 'client assistance agency'), at the request of the client assistance agency and to the extent necessary for the verification of data on loan repayment and data on the financial and economic situation of clients asking for being included in that scheme.

(3) Unless other legislation<sup>76aa</sup> provides otherwise, a public authority may conclude an agreement with a bank or with a foreign bank branch on automated electronic communication via a separate information system, which must comply with the requirements for a smooth, reliable and safe exchange of information. Such agreement on automated electronic communication via a separate information system may also be concluded on behalf of a bank or a foreign bank branch by an interest group of banks and foreign bank branches,<sup>86f</sup> for which this interest group was constituted.<sup>86f</sup> On behalf of public authorities joined in a professional self-governing chamber,<sup>76aa</sup> such agreement may also be concluded by that professional self-governing chamber. The interest group shall, without undue delay, provide the text of the agreement on electronic communication to each bank and foreign bank branch concerned. If an agreement on electronic communication is concluded between a professional self-governing chamber joining public authorities and the interest group of banks and foreign bank branches<sup>86f</sup> in the range specified in other legislation,<sup>76aa</sup> the procedure stipulated by the agreement is to be followed by all banks and foreign bank branches, while the requirements for a smooth, reliable and safe information exchange are to be ensured jointly by the professional self-

governing chamber and the interest group of banks and foreign bank branches.<sup>86f</sup> When entering into an agreement on automated electronic communication via a separate information system, the interest group of banks and foreign bank branches shall also agree a form for electronic submissions or for electronic official documents. This form shall also be binding where an electronic submission or electronic official document is not delivered via the agreed electronic communication system.

### Section 91

(1) All information and documents, which are not publicly available, on matters concerning the clients of banks and foreign bank branches are subject to banking secrecy, including but not limited to information on transactions, account balances and deposit balances. Banks and foreign bank branches shall keep such information confidential and protect it against disclosure, misuse, damage, destruction, loss or theft. Information and documents on matters that are subject to banking secrecy may be disclosed by a bank or a foreign bank branch to a third person only with the prior written consent of the client concerned or upon their written instruction for the purposes and subject to the conditions stated in this consent or instruction, unless this Act provides otherwise. In return for payment of the material costs, clients shall have the right to become acquainted with the information kept on them in the database of a bank or a foreign bank branch, and to receive a transcript of such information. The disclosure of information in summary form, where the name of the bank or foreign bank branch and the forename and surname of the client and information under other legislation<sup>76a</sup> are not stated, is not deemed to be a breach of banking secrecy.

(2) For the purposes of this part of the Act, the following persons shall also be deemed to be clients of a bank or a foreign bank branch: a legal successor of an existing client within the scope of the rights and duties that the legal successor has acquired; a person with whom a bank or a foreign bank branch has negotiated a transaction, even if the transaction did not actually take place; a person who has ceased to be a client of a bank or a foreign bank branch; and any person about whom a bank or a foreign bank branch has received data hereunder from another bank or foreign bank branch, data from the Register of Loans and Guarantees under Section 38, data from the Register of Clients under Section 92(7), or data from the Joint Register of Banking Information under Section 92a.

(3) Banks and foreign bank branches shall submit, without requiring the client's consent, a report on all facts that are subject to banking secrecy to Národná banka Slovenska, to persons commissioned to exercise supervision, including external assistants<sup>15a</sup> and persons specified in Sections 6(7) and 49(2), to the Resolution Council for the purpose of exercising its powers under this Act or other legislation,<sup>30zx</sup> to auditors during assignments stipulated by this Act or another act,<sup>40</sup> and to the Deposit Protection Fund for the performance of tasks under other legislation;<sup>77</sup> home savings banks shall disclose such information also to persons commissioned to control the use of state interest subsidies in home savings,<sup>78</sup> and banks that are covered bond issuers also to their covered bond programme administrators and covered bond programme deputy administrators, and to persons commissioned to control the use of state interest subsidies in mortgage transactions.

(4) Where matters concerning a client are subject to banking secrecy, the bank or foreign bank branch shall, without requiring the client's consent, submit a report on these matters to any of the following entities on the basis of a request in writing from the respective entity:

- (a) a court of justice, including a notary public in the capacity of a court commissioner, for the purposes of civil dispute procedure and administrative court procedure to which the client of the bank or foreign bank branch is a party, or the subject of which is the property of the client of the bank or foreign bank branch;<sup>79</sup>
- (b) a law enforcement authority or court for the purposes of criminal prosecution;<sup>80</sup>

- (c) a tax authority, customs authority, the Financial Directorate of the Slovak Republic, or tax-collecting municipality<sup>80c</sup> to the extent necessary for the performance of tax administration and customs supervision in cases related to clients of banks or foreign bank branches or to the property of such clients, including the recovery of tax arrears in tax execution proceedings or the recovery of customs debts, sanctions and other payments imposed in accordance with customs regulations in customs execution proceedings;
- (d) the Government Audit Office<sup>82</sup> conducting financial audit activities under other legislation<sup>82</sup> in respect of the client of the bank or foreign bank branch;
- (e) a court executor assigned to conduct execution proceedings under other legislation,<sup>67</sup> or, for the purpose of auditing the accounts and execution proceedings of an executor who has been relieved from duty under other legislation,<sup>82a</sup> by the Slovak Chamber of Executors;
- (f) a state administration authority for the purpose of executing a decision<sup>83</sup> imposing an obligation upon the client of the bank or foreign bank branch, or a creditor of the client of the bank or foreign bank branch, to make a specific payment;
- (g) the Criminal Police, the Financial Police and inspection service of the Police Force for the purposes of detecting criminal acts, investigating and searching for the perpetrators,<sup>84</sup> or in order to support the Financial Police in their tasks under other legislation<sup>84a</sup> in proving the origin of property; the Border and Foreign Police of the Police Force as part of residence proceedings in the Slovak Republic,<sup>84b</sup> to the extent necessary for verifying the amount of financial resources available to the foreigner for residence or for conducting business activities;
- (h) the Ministry in exercising control as stipulated by this Act or by other legislation;<sup>85</sup>
- (i) a receiver or preliminary receiver in bankruptcy, restructuring, composition or debt restructuring proceedings, or a supervising administrator conducting supervisory administration in matters related to the client of a bank or a foreign bank branch whose property is the subject of bankruptcy, restructuring, composition or debt restructuring proceedings or who has been placed under supervisory administration in compliance with other legislation;<sup>58</sup>
- (j) a competent state authority for the purpose of discharging obligations arising from an international treaty binding upon the Slovak Republic,<sup>86</sup> where the discharge of obligations under this treaty may not be declined on account of banking secrecy;
- (k) the National Security Office, the Slovak Intelligence Service, Police Force, and Military Intelligence for the purpose of performing security checks within their fields of competence in accordance with other legislation;<sup>86a</sup>
- (l) the Office for Personal Data Protection for the purpose of supervision under another act<sup>37</sup> the processing and protection of personal data of clients of a bank or a foreign bank branch;
- (m) the Supreme Control Office of the Slovak Republic for the purpose of checking a client of a bank or a foreign bank branch under another act;<sup>86b</sup>
- (n) the Judicial Treasury for the purpose of collecting a judicial claim under another act<sup>86c</sup> from a client of a bank or a foreign bank branch;
- (o) the Slovak Intelligence Service for the purposes of fight against organised crime and terrorism in accordance with other legislation;<sup>86d</sup>
- (p) the Military Intelligence for the purposes of performing its tasks under other legislation;<sup>86da</sup>
- (r) a client assistance agency to the extent necessary for verifying the data concerning the repayment of liabilities from loans and the net worth of the clients included or applying for inclusion in the assistance scheme for clients who have lost their ability to repay a housing loan as a consequence of the economic crisis;
- (s) the Financial Administration Criminal Office and the Finance Directorate of the Slovak Republic to the extent necessary for:
  1. the performance of tasks related to the investigation of criminal offences, and to the identification and searching for the perpetrators;<sup>86db</sup> or
  2. the performance of tax administration and customs supervision in the cases related to clients of banks or foreign bank branches or to the property of such clients;

- (t) the Ministry in connection with the imposition of international sanctions under other legislation;<sup>86dc</sup>
- (u) a competent court to the extent necessary for the performance of its tasks of identifying final beneficiaries and of maintaining the Register of Public Sector Partners under other legislation;<sup>86dd</sup>
- (v) the bank or foreign bank branch for the purpose of verifying the information specified in Section 27c(2) and Section 27d(3), second sentence;
- (w) the Antimonopoly Office of the Slovak Republic to the extent necessary for the performance of its tasks related to the protection of economic competition under other legislation;<sup>86de</sup>
- (x) the Office for Gambling Control to the extent necessary for the supervision over the provision of prohibited offers and supervision over activities related to the provision of prohibited offers;<sup>86df</sup>
- (y) in the case of a client who is party to claim recovery proceedings before the Social Insurance Agency under other legislation,<sup>86dh</sup> the Social Insurance Agency<sup>86dg</sup> for the purpose of serving a garnishee order against the client's bank account;
- (z) the Office for Public Procurement to the extent necessary for the performance of its tasks related to the supervision over public procurement under other legislation;<sup>86di</sup>
- (aa) where this concerns a whistleblower who is an employee of a bank or a foreign bank branch, the Office for the Protection of Whistle-blowers to the extent necessary for the protection of the whistleblower under other legislation;<sup>86dj</sup>
- (ab) the Judicial Council of the Slovak Republic through the Office of the Judicial Council of the Slovak Republic for the purposes of performing its authority under other legislation.<sup>86dk</sup>
- (ac) a notary in the extent necessary for the performance of their tasks in certifying fulfilment of conditions under other legislation<sup>86dl</sup> that a recipient as defined in other legislation<sup>86dm</sup> has opened an account in a bank or foreign bank branch, when registering a designated legal person in the register of designated legal entities under other legislation;<sup>86dn</sup>
- (ad) the Ministry of Interior<sup>86do</sup> for the purpose of checking the conduct of an election campaign pursuant to other legislation;<sup>86dp</sup>
- (ae) the Financial Administration Criminal Office for the purpose of providing them to the European Anti-Fraud Office pursuant to other legislation<sup>86dq</sup> in the scope requested by the European Anti-Fraud Office;
- (af) the Central Office of Labour, Social Affairs and Family for the purposes of the granting of a contribution to the payment of increased housing loan instalments pursuant to other legislation.<sup>86dqa</sup>

(5) A written request made under paragraph 4 shall contain information that enables a bank or a foreign bank branch to identify the matter in question, especially the full name of the person on which data are requested and the range of the data requested; such information need not be stated in the written request made in accordance with paragraph 4(b), (c), (g), (o), (p), (s) and (w) or during a tax inspection at the bank or foreign bank branch. A written request made pursuant to paragraph 4(a) must include an authorisation from the court commissioning a notary to act as a court commissioner; a written request made under paragraph 4(e) must contain an authorisation from the court commissioning a court executor to conduct enforcement. A written request made pursuant to paragraph 4(i) must contain the bankruptcy court's decision to appoint an administrator or a preliminary administrator or a reference to the Commercial Bulletin in which such decision has been published; if this refers to a written request made by the supervising administrator, the request must contain a reference to the Commercial Bulletin in which the introduction of supervisory administration was announced. The court's decision on such delegation or appointment must be delivered in the original or as copy certified pursuant to other legislation,<sup>50</sup> unless it has been previously published in the Commercial Bulletin. Subsequent to an agreement with a bank or a foreign bank branch, it is also possible to submit written requests as stipulated in paragraph 4 in electronic form, using an electronic signature, a guaranteed electronic signature, or other ways of

verifying the applicant's identity as agreed in writing; in such cases, it is not necessary to present a court decision on delegation or appointment. If a written request under paragraph 4(b), (c), (g), (o), (p) or (s) is delivered to a bank or foreign bank branch by automated means in a separate information system as defined in Section 90(3) and the information necessary for the identification of the relevant matter is presented in a structured electronic format permitting automated processing, the bank or foreign bank branch must respond no later than the working day following the delivery of the request if the bank or foreign bank branch has the information at its disposal without the need for further processing. For requests under the sixth sentence, banks and foreign bank branches are not obliged to verify compliance with the permissible scope, the existence of prior consent or approval or other restrictions under this Act or other legislation;<sup>86dr</sup> responsibility in such cases is borne by the person submitting the request.

(6) Disclosure of information necessary for the provision of payment services through a designated legal person<sup>9</sup> is not a breach of banking secrecy. Nor is it a breach of banking secrecy if a bank or foreign bank branch discloses information in the performance of its duty as an authorised person in respect of the maintenance of the Register of Public Sector Partners.<sup>86dd</sup>

(7) Compliance with the obligation of banks and foreign bank branches to report unusual banking transactions under other legislation<sup>21a</sup> shall not be deemed to be a violation of banking secrecy. The same applies to the obligation of banks and foreign bank branches to notify, under other legislation,<sup>80</sup> the law enforcement authorities of any suspicion of a criminal act committed or contemplated in connection with matters that are otherwise subject to banking secrecy.

(8) Banks and foreign bank branches shall provide the Ministry, within the time limits set thereby, with a written list of clients subject to international sanctions imposed under other legislation;<sup>86e</sup> the provided list must also contain the account numbers and account balances of these clients.

(9) Banks and foreign bank branches can also send such reports as stipulated in paragraph 4 by electronic means; this is without prejudice to the provisions of paragraph 10.

(10) A written request to a bank or a foreign bank branch under paragraph 4 can be filed in electronic form and the bank or foreign bank branch addressed shall also deliver the requested information on a client in electronic form in accordance with paragraph 4, while the transfer of information between the applicant and the bank or foreign bank branch shall take place through an automated electronic communication system operated by an interest group of banks and foreign bank branches.<sup>86f</sup> A written request according to the first sentence shall be made in the manner and form specified in paragraph 5 on the basis of an agreement made between the applicant or group of applicants and the interest group of banks and foreign bank branches, which shall forthwith provide each bank or foreign bank branch with the text of the agreement made and the procedure agreed therein shall be observed by each bank or foreign bank branch. If the applicant or group of applicants as referred to in paragraph 4 agrees with the interest group of banks and foreign bank branches upon the written application form, the relevant applicant or group of applicants shall use this form when making a written application pursuant to paragraph 4, even if the written application is not filed through the automated electronic communication system operated by the interest group of banks and foreign bank branches.

(11) Compliance with the reporting requirement in relation to the competent authority of the Slovak Republic, with the aim of ensuring an automatic exchange of financial account information for tax administration purposes under other legislation<sup>86g</sup> and with the aim of ensuring an automatic

exchange of information on cross-border measures subject to notification for tax administration purposes as specified in other legislation,<sup>86ga</sup> shall not be deemed to be a breach of banking secrecy.

(12) Banks, foreign banks, foreign bank branches<sup>86i</sup> and creditors under other legislation<sup>86h</sup> do not breach banking secrecy by fulfilling their obligations.

(13) Compliance with the reporting requirement of banks, foreign banks and foreign bank branches in relation to the National Security Office regarding their tasks in the area of cybersecurity under other legislation<sup>86j</sup> shall not be deemed a breach of banking secrecy.

(14) The provision of data by banks or foreign bank branches to the central accounts register pursuant to other legislation<sup>86k</sup> shall not be considered a breach of bank secrecy

## Section 92

(1) Banks and foreign bank branches shall, upon written request, without requiring the consent of the client concerned, provide any data needed to identify a client, including the client's account number and payment operations data, to any person who presents a written statement to the bank or foreign bank branch that:

- (a) owing to an error in payment or settlement operations, the person concerned suffered damage consisting in the transfer of funds owned or managed by that person and the crediting of these funds to the client's account; and
- (b) the recovery of such wrongly transferred funds requires data for identifying the client concerned and details of that client's account to which the funds have been credited as a result of an error mentioned under point (a).

(2) A bank or a foreign bank branch shall not provide the data specified in paragraph 1 if the client concerned, after receiving a written notice from the bank or foreign bank branch regarding the client's request, orders the bank or foreign bank branch to transfer back the funds from the client's account within seven calendar days from the date of delivery to the bank or foreign bank branch of a written request for client identification data.

(3) If a client of a bank or a foreign bank branch fails to meet the obligations of a client towards the bank or foreign bank branch duly and in time despite a written appeal, the bank or foreign bank branch may, without requiring the client's consent, provide information about this client in the range specified in Section 93a(1)(a), points 1 to 3, as well as information and documentation on the client's defaulted obligations to an expert supposed to appraise the client's obligations,<sup>87</sup> to a court executor it has designated in a proposal for execution against the client or with whom it files its title against the client subject to execution, or to an auctioneer with whom it has made a contract to conduct a voluntary auction pursuant to other legislation<sup>87a</sup> in connection with the client's defaulted obligation. If a client of a bank or a foreign bank branch fails to meet the obligations of a client towards the bank or foreign bank branch duly and in time despite a written appeal, or if another dispute between the bank or foreign bank branch and the client occurs, the bank or foreign bank branch may, without requiring the client's consent, provide information about this client in the range specified in Section 93a(1)(a), points 1 to 3, as well as information and documentation on the dispute in question to an attorney whom it has authorised in writing to represent it against the relevant client in seeking protection or enforcement of unsatisfied or disputed rights of the bank or foreign bank branch. In so doing, the bank or foreign bank branch may only provide information and documentation on the client's defaulted obligations or its disputed relations with the client to which the power of attorney applies; the bank and foreign bank branch may only provide information and documentation



concerning other individual relations with the client under the conditions and in the range specified in this Act.

(4) The persons and authorities mentioned in paragraphs 1 to 3 and in Sections 90, 91, 92a and 92b, may use the information, data, and reports provided by a bank or a foreign bank branch on matters that are subject to banking secrecy only for purposes or proceedings for which the information, data, and reports in question were disclosed; in so doing, they shall comply with the duty of confidentiality. The persons and authorities specified in paragraphs 1 to 3 and in Sections 90, 91, 92a and 92b, may exchange such information between themselves only for the purposes for which they were provided with the information; otherwise they may disclose such information only with the consent of the bank or foreign bank branch in accordance with the conditions set out in paragraphs 1 to 3 and in Sections 90, 91, 92a or 92b.

(5) If, on the grounds of arrears on the client's part, a claim of a bank or a foreign bank branch from a granted loan or guarantee is classified under Section 39(11) and (12) as a classified claim that can reasonably be expected not to be satisfied to the full amount of its nominal value, the bank or foreign bank branch concerned shall be entitled, without requiring the client's consent, to provide other banks and foreign bank branches with data to the effect that this client, identified to no more than the extent set in Section 93a(1)(a), points 1 and 2, has violated their duties and is in arrears with the settlement of the said claim, as well as with data on this claim and its classification. If a client of a bank or a foreign bank branch is, despite being notified in writing by the bank or foreign bank branch, more than 90 days in arrears with the settlement of any part of a financial liability or other obligation towards the bank or foreign bank branch, or if the client repeatedly fails to meet any obligation towards the bank or foreign bank branch, the bank or foreign bank branch concerned may, after giving a prior notice to the client and without requiring the client's consent, notify other banks and foreign bank branches that the client has defaulted on certain liabilities towards the bank agreed-upon in a contract or in legislation of general application. In such cases, the bank may disclose only the client's name, registered office address or permanent address, and the obligation violated by the client. The bank may not carry on providing such information on a client's default after the client has fully and completely redressed the consequences of the default, in particular after the client has settled a past due liability in full, including its accessories; the bank shall inform other banks and foreign bank branches of this rectification without delay. Information provided in this way is subject to banking secrecy.

(6) In the event of security interest enforcement by a pledgee whose turn it is to satisfy their claim from the collateral after the bank or foreign bank branch concerned, such bank or foreign bank branch shall disclose information subject to banking secrecy on the amount of the claim secured by a security interest of the bank or foreign bank branch, needed to assess the collateral, only to the person assessing the collateral for the purposes of security interest enforcement.<sup>87ab</sup>

(7) Banks and foreign bank branches shall be entitled:

- (a) to keep a register of clients who do not meet, duly and in time, their commitments ensuing from contractual relationships between the bank and a client, clients who make what a bank or a foreign bank branch considers an unusual business transaction as defined in other legislation,<sup>21a</sup> and clients to whom international sanctions apply under other legislation,<sup>86d</sup>
- (b) to disclose, without requiring the client's consent, information from this register to other banks or foreign bank branches; the information disclosed is subject to banking secrecy for these banks and foreign bank branches.

(8) If, despite being notified in writing by the bank or foreign bank branch concerned, a client is permanently more than 90 days in arrears with the discharge of a financial liability or part thereof

towards the bank or foreign bank branch, such bank or foreign bank branch may assign its claim corresponding to this liability by way of a written contract to a third person, including a non-bank person (hereinafter 'assignee'), without requiring the client's consent; this is without prejudice to claim assignment rules arising from consumer credit agreements under other legislation<sup>87ac</sup> or from housing loan agreements under other legislation.<sup>87ad</sup> The bank or foreign bank branch may not have recourse to this right if the client repays the past due liability to the bank or foreign bank branch in full, including accessories, prior to the date of claim assignment; this does not apply if the sum of the client's all arrears with the discharge of the same financial liability of part thereof towards the bank or foreign bank branch exceeds one year. When assigning a claim, the bank or foreign bank branch shall also hand over to the assignee the documentation on the liability relationship underlying the claim transferred; the bank or foreign bank branch may provide information to the assignee on other liability relationships between the bank or foreign bank branch and the client only under the conditions and in the range stipulated by this Act.

(9) Only with the prior approval of Národná banka Slovenska may information be disclosed which is subject to banking secrecy and concerns the following: the sale of a bank or a foreign bank branch, or part thereof, under other legislation;<sup>28</sup> the sale of a share of at least 33% in the capital of a bank; or a bank's merger or cross-border merger. A bank or a foreign bank branch may disclose such information only to a person with whom negotiations are being conducted on the conclusion of a contract on such a matter, to a person acting on such a person's behalf, to the other party in the merger or cross-border merger, or to a person producing documents required for the decision to conclude a contract related to the sale or to the approval of the project proposal for the bank's conversion or cross-border conversion. Persons receiving information that is subject to banking secrecy shall keep such information confidential even after the negotiations have ended, or the documents have been produced, or the bank's merger or cross-border merger has taken legal effect. With such persons, the bank or foreign bank branch concerned shall conclude a written contract governing the duty of confidentiality and the protection of information subject to banking secrecy, as well as responsibility for its misuse. Unless this contract is concluded, the approval of Národná banka Slovenska may not be granted.

(10) For submitting a report to an auditor under Section 91(3) and a report under Section 91(4)(a), (e) and (i), banks and foreign bank branches shall be entitled to reimbursement for their expenses. Reimbursement for expenses is also due to a bank or a foreign bank branch for the submission of a report under Section 91(4)(a), (e) and (i), if the person on which data are requested in writing is not a client of the bank or foreign bank branch in question. The reimbursement of expenses incurred in connection with the delivery of a report under Section 91(4)(i) is not subject to other legislation.<sup>87aa</sup>

(11) A bank that is part of a consolidated group controlled by another bank, foreign bank or financial institution, which is subject to supervision on a consolidated basis in its home country, shall be entitled, without requiring the client's consent, to provide information subject to banking secrecy to a person that controls this group, specifically to the extent necessary to compile statements and reports on a consolidated basis, but to no more than the extent specified in Section 93a(1)(a) and on condition that the person controlling this group will provide for the protection of the information supplied, at least at the same level as the bank supplying the information. The information so provided shall continue to be subject to banking secrecy and may only be used for the purpose for which it was provided.

## Section 92a

(1) For the purposes of preparing, concluding and executing transactions with clients and for the purposes of documenting the operations of banks and foreign bank branches, banks and foreign bank branches may, by automated or non-automated means, create a Joint Banking Register, through which banks and foreign bank branches shall be entitled, with the client's consent in accordance with Section 91(1), to make available and provide to each other, solely under the conditions stipulated by this Act and by other legislation,<sup>37</sup> free of charge or in consideration for the real costs incurred, data on loans and bank guarantees granted to their clients, data on requested loans and bank guarantees where the clients have demonstrably applied for them, data on these clients in the range specified in Section 93a(1)(a), points 1 to 3, data on their claims arising from loans and bank guarantees granted to clients and the securing of these claims, data on liability repayment by clients in respect of the loans and bank guarantees granted, and data on the financial standing and good repute of clients in terms of liability repayment in respect of the loans and bank guarantees granted.

(2) Banks and foreign bank branches may, under the conditions stipulated by this Act and by other legislation,<sup>37</sup> entrust the operation of the Joint Banking Register, including data processing in the Joint Banking Register, only to a joint auxiliary banking services undertaking acting in the capacity of an operator;<sup>87b</sup> interests in the share capital of this undertaking may be held exclusively by banks, foreign bank branches, or by Národná banka Slovenska. Such a joint auxiliary banking services undertaking shall store the Joint Banking Register and the data therein in an appropriate manner, to make backup copies of the data stored, to keep them strictly confidential and protect them against unauthorised access, disclosure, misuse, modification, damage, destruction, loss or alienation. The joint auxiliary banking services undertaking and the Joint Banking Register are subject to supervision. The joint auxiliary banking services undertaking shall be entitled to commission third persons<sup>87b</sup> to process the data stored in the Joint Banking Register under the conditions laid down in other legislation;<sup>37</sup> where data processing is done in a manner requiring approval from the Office for Personal Data Protection under other legislation,<sup>37</sup> the joint auxiliary banking services undertaking shall only be entitled to commission third persons to process data that are subject to approval by the Office for Personal Data Protection.

(3) Information supplied to or from the Joint Banking Register remains subject to banking secrecy. Information from the Joint Banking Register and information on other facts about the operation of the Joint Banking Register may only be provided to banks, foreign bank branches, Národná banka Slovenska, or to a client assistance agency to the extent necessary for the verification of data on the discharge of liabilities in respect of loans and on the financial and economic situation of clients included or applying for inclusion in the assistance scheme for clients who have lost their ability to repay a housing loan as a consequence of the economic crisis, other persons and bodies under the same rules and conditions that apply to the disclosure and provision of information classified as bank secrets under the provisions of Section 91(2) to (9) and Section 92(4) and, with the client's consent under Section 91(1), also to another person named therein, if that person ensures the protection of the information provided, at least at the same level as the operator of the Joint Banking Register pursuant to paragraph 2 and the information provided may only be used in accordance with the client's consent under Section 91(1) and for the purpose for which it was provided. Information from the Joint Banking Register on consumers shall also be made available to other persons as specified in another act<sup>87c</sup> under the same conditions as to banks and foreign bank branches. In relation to any other persons, the employees and members of bodies of the joint auxiliary banking services undertaking shall keep such information confidential in accordance with paragraph 2.

(4) Information about clients and their transactions as specified in paragraph 1, supplied to the Joint Banking Register by a bank or a foreign bank branch, may be stored in the Joint Banking Register for five years from the expiration of the clients' obligations from transactions mentioned in paragraph 1, unless the clients demonstrably give their consent under Section 91(1) to the storage of

this information in the Joint Banking Register for a different period; this period may not be reduced additionally. The bank or foreign bank branch that has supplied data on clients and their transactions pursuant to paragraph 1 to the Joint Banking Register shall demonstrably notify the joint auxiliary banking services undertaking under paragraph 2 of the date of expiry of the clients' obligations from transactions mentioned in paragraph 1.

(5) The clients of banks and foreign bank branches who are not natural persons shall be entitled to obtain at no charge information from the Joint Banking Register regarding themselves and their transactions; to obtain from the operator of the Joint Banking Register, at least once a year and at no charge, the list of persons to whom information on such clients who are not natural persons and their transactions has been provided from the Joint Banking Register; and to require, at no charge, the Joint Banking Register to correct or remove any inaccurate, incomplete, or outdated information in the Joint Banking Register regarding such clients who are not natural persons and their transactions. The clients of banks and foreign bank branches who are natural persons shall be entitled to access their personal data under other legislation.<sup>37</sup>

### **Section 92b**

(1) For the purpose of providing basic banking products pursuant to Section 27c, banks and foreign bank branches may, by automated or non-automated means, create a joint register of consumers to whom a basic banking product has been provided and through which register banks and foreign bank branches shall be entitled, without requiring the consent of the consumer as the person concerned under other legislation,<sup>37</sup> to make available and provide to each other, solely under the conditions stipulated by this Act and by other legislation,<sup>37</sup> free of charge or in consideration of the real costs incurred, information about the basic banking products provided to consumers in the range specified in Section 93a(1)(a), points 1 and 3.

(2) Information provided to or from the joint register of consumers to whom a basic banking product has been granted remains subject to banking secrecy. Information from the joint register and information about other facts about the operation of this register may only be provided to banks and foreign bank branches. In relation to any other persons, the employees and members of bodies of the joint auxiliary banking services undertaking shall keep such information confidential.

(3) The joint register of consumers to whom a basic banking product has been provided is equally subject to the provisions of Section 92a(2), (4) and (5).

### **Section 92c**

For the purposes of exercising its powers and performing its tasks under this Act and other legislation<sup>1a</sup> and for statistical purposes, the Ministry may request the association<sup>86f</sup> of banks and foreign bank branches to release a statement, explanation, and other data and information concerning the activity of that association or its members. For the purposes of such cooperation, the association in question may collect and process data and information from its members in order to meet the Ministry's request.

### **Section 93**

(1) The employees of banks and foreign bank branches, members of their statutory or supervisory bodies, covered bond programme administrators and their deputies, and persons doing translations or conducting activities under Section 92(3) shall keep confidential any matters relevant to the interests of the bank or foreign bank branch concerned and their clients, unless this Act provides

otherwise. The aforementioned persons may be exempted from this obligation by the statutory body of the bank or the head of the foreign bank branch concerned owing to reasons listed in Section 91(3) to (7), and Section 92(1) to (5). The duty of confidentiality as defined in this paragraph does not apply to persons assigned to exercise banking supervision.

(2) The employees and members of bodies of a designated legal person<sup>9</sup> ensuring the provision of payment and settlement services shall not disclose any matters relating to payment and settlement services to any third person, except to Národná banka Slovenska performing tasks under this Act or under other legislation<sup>8</sup> and to the Resolution Council performing tasks under this Act or under other legislation.<sup>30zx</sup>

(3) The duty of confidentiality remains in effect after the termination of the employment relationship or other legal relationship or after the term of office pursuant to paragraphs 1 or 2.

(4) The provisions of paragraphs 1 to 3 are without prejudice to the obligation to prevent or report a criminal offence in accordance with another act.<sup>88</sup>

### Section 93a

(1) For the purposes of ascertaining, reviewing, and checking the identity of clients and their proxies, for the purposes of conducting and executing transactions with clients, and for other purposes listed in paragraph 3, the clients and their proxies shall, when entering into a transaction, meet the request of the bank and foreign bank branch:

(a) to provide:

1. if a natural person is concerned, including a natural persons representing a legal person, personal identification data<sup>88a</sup> such as the full name, permanent address, temporary address, personal identification number, if assigned, date of birth, citizenship, and the type and number of the identity document, together with a photograph; and, if a natural persons engaged in business is concerned, the field of business, place of business address, designation of the official register or other official record in which the person is registered, and the number of entry in this register or record;
2. if a legal person is concerned, identification data such as name, company registration number, if assigned, registered office address, field of business or other activities, organisational units, place of business address and any other place where business activities are performed, list of statutory body members and data on them as specified under point 1, list of partners holding more than 10% of the share capital or voting rights of this legal person, including their identification data such as name, legal form, registered office address, company registration number, and country ISO code (for legal entities), or data as specified under point 1 (for natural persons), as well as the designation of the official register or other official record in which the relevant legal person is registered,<sup>88b</sup> and the number of its entry in this register or record;
3. a contact telephone number, fax number, and electronic mail address, if any;
4. documents and data proving and documenting:
  - 4a. the client's ability to discharge the liabilities arising from transactions;
  - 4b. the required coverage of liabilities arising from transactions;
  - 4c. authorisation for representation, where a proxy is involved;
  - 4d. the fulfilment of other requirements and conditions for the conclusion and execution of a transaction, stipulated by this Act or by other legislation or agreed with the bank or foreign bank branch concerned;

(b) to enable the following to be obtained by photocopying, scanning, or other means of recording:

1. personal identification data<sup>88a</sup> from an identity document, including the degree, full name, maiden name, personal identification number, date of birth, place and district of birth, permanent address, temporary address, citizenship, record of any restriction in legal capacity, type and number of the identity document, issuing authority, and the date of issue and date of expiry of the identity document; and
2. additional information from documents proving the information to which point (a) applies.

(2) For the purposes of ascertaining, reviewing, and checking the identity of clients and their proxies, for the purposes of preparing, conducting and executing transactions with clients, and for other purposes listed in paragraph 3, banks and foreign bank branches shall be entitled, for each transaction, to request from clients and their proxies data in the range specified in paragraph 1 and to request such data repeatedly for each transaction in the manner specified in paragraph 1(b); they shall also be entitled, when concluding and executing transactions via the telephone service of electronic communications, to process for such purposes, without requiring the consent of the clients or their proxies, biometric data from clients or their proxies, including voice biometrics. Clients and their proxies shall satisfy each such request received from a bank or a foreign bank branch.

(3) For the purposes of ascertaining, reviewing, and checking the identity of clients and their proxies, for the purposes of concluding and executing transactions with clients, for the purposes of protecting and enforcing their rights against clients, for the purposes of documenting their operations, for the purposes of exercising supervision over their operations, and for the purposes of performing the tasks and duties of a bank or a foreign bank branch hereunder or under other legislation,<sup>88c</sup> banks and foreign bank branches shall be entitled, without requiring the consent of the persons concerned,<sup>88d</sup> to ascertain, acquire, record, store, use or otherwise process<sup>88e</sup> personal data and other data in the range specified in paragraph 1, Section 91(1), Section 38(3) and Section 92a; in so doing, banks and foreign bank branches shall be entitled, by automated or non-automated means, to make copies of the identity documents and process personal identification numbers<sup>88f</sup> and other data and documents in the range specified in paragraph 1, Section 91(1), Section 38(3) and Section 92a.

(4) Banks and foreign bank branches shall, without requiring the consent of the persons concerned,<sup>88d</sup> make available and provide<sup>88g</sup> for processing the data specified in paragraphs 1 to 3, Section 91(1), Section 38(3), and Section 92a to other persons determined by law only under the conditions stipulated by this Act or by another act<sup>88h</sup> and to Národná banka Slovenska for the purposes of maintaining the register of bank loans and guarantees and performing tasks, activities, and supervision under to this Act and other acts. For the purposes specified in paragraph 3, Národná banka Slovenska shall be entitled to process, make available and provide<sup>88g</sup> to banks and foreign bank branches from its information system the data specified in paragraphs 1 to 3, Section 91(1), and Section 92a and registered in the register of bank loans and guarantees.

(5) Banks and foreign bank branches shall be entitled, without requiring the consent of or informing the persons concerned,<sup>88d</sup> to make available and provide<sup>88g</sup> the data specified in paragraphs 1 to 3, Section 91(1), Section 38(3) and Section 92a, from their information system only to persons and bodies which are required by law to provide or which are entitled by law to provide information that is protected under banking secrecy, but only in the range specified for the provision of information that is protected under banking secrecy.

(6) Banks and foreign bank branches may make available and provide abroad the data specified in paragraphs 1 to 3, Section 91(1), Section 38(3) and Section 92a only under the terms and conditions stipulated by another act<sup>88i</sup> or where so stipulated by an international treaty binding upon the Slovak Republic and taking precedence over the laws of the Slovak Republic.

(7) The premises of banks, foreign bank branches, and Národná banka Slovenska, as well as automated teller machines and currency exchange machines located outside the premises of banks and foreign bank branches, may be monitored using video cameras or sound recording equipment even where there is no notice that the area is under surveillance;<sup>88ia</sup> the recordings may be used to reveal criminal acts, detect and search for the perpetrators, and in particular to ensure effective protection against money laundering and terrorist financing, to uncover illegal financial operations, judicial proceedings, criminal proceedings, misdemeanour proceedings, and to supervise the discharge of obligations imposed by law on banks and foreign bank branches.<sup>88ia</sup> Any such video or audio recording made by a bank, foreign bank branch or Národná banka Slovenska shall be handed over without delay to the authority mentioned in Section 91(4)(b), (g), (o) and (p), if it so requests. If a recording is not used for these purposes, then it shall be destroyed without delay by the person who made it, after the expiration of thirteen months after its making.<sup>88ia</sup>

(8) Banks shall be entitled to process the personal data of clients and other persons concerned for the purpose of assessing risks related to a planned transaction between the client and the bank in the scope defined in paragraph 1(a). A prior approval issued by Národná banka Slovenska under Section 30 shall include a decision of Národná banka Slovenska on whether the processed personal data requested by a bank in its application for prior approval correspond to the purpose of their processing in terms of scope, content, and method of processing or use, whether they are compatible with the given purpose of processing, whether they are essential to achieve this purpose, or whether they are out of date in time and subject-matter terms in relation to this purpose.

(9) For the purposes of verifying and checking the identification of clients and their representatives, for the purposes of concluding and executing transactions with clients, for further purposes pursuant to paragraph 3, and for the purposes of updating the data they hold on clients and their representatives, banks and foreign bank branches may, without requiring the consent of the persons concerned, obtain data pursuant to paragraph 1 within the scope of data recorded in the Register of Natural Persons<sup>74d</sup> and data recorded in the Register of Identity Cards<sup>88ib</sup> also by means of a Joint Banking Register pursuant to Section 92a. For the purposes of the first sentence, the Ministry of Interior and the administrator of the communication part of the authentication module under other legislation<sup>74c</sup> shall provide the bank or foreign bank branch with data as specified in paragraph 1, including by means of a Joint Banking Register pursuant to Section 92a.

(10) For the purposes of ascertaining, verifying and checking the identification of clients and clients' representatives, for the purposes of concluding and executing transactions with clients, for further purposes pursuant to paragraph 3, and for the purposes of updating the clients' and client representatives' data that they already hold, banks and foreign bank branches may, without requiring the consent of the persons concerned, obtain data specified in paragraph 1 within the scope of data recorded in the Register of Legal Entities, Entrepreneurs and Public Authorities,<sup>88ic</sup> including by means of a Joint Banking Register pursuant to Section 92a.

### **Section 93b**

(1) Alternative dispute resolution entities established under other acts<sup>88j</sup> are also competent to solve disputes related to banking transactions under Section 5(i) between consumers and banks or foreign bank branches.

(2) Banks and foreign bank branches shall provide or disclose to their clients, who are consumers, information on the possibility of alternative resolution of disputes related to banking transactions [Section 5(i)] through alternative dispute resolution entities which are competent to resolve disputes related to such transactions, specifically information on the use of such possibility at

consumers' discretion, including their opportunity to select an alternative dispute resolution entity. Banks and foreign bank branches shall also provide or make accessible the information on how to obtain further information on the competent entity of alternative dispute resolution and on conditions of applying to this entity. Banks and foreign bank branches shall provide the information stated in the first and second sentences in a clear and comprehensible form and make them easily accessible in their business premises, in general terms and conditions and on their website.

(3) Banks and foreign bank branches shall provide or disclose to their clients, who are not consumers, information on the possibility of arbitration dispute resolution or other out-of-court settlement of disputes related to banking transactions [Section 5(i)] and information on other legislation governing the arbitration dispute resolution or other out-of-court settlement of such disputes.<sup>88k</sup> The provision and disclosure of information stated in the first sentence are also subject to the provision of the third sentence of paragraph 2.

(4) The provisions of Section 93a shall be likewise applied to a standing arbitration court which is competent to resolve disputes related to banking transactions [Section 5(i)], namely to the provision, acquisition, disclosure and processing of data for the purposes of proceedings before and decisions taken by such arbitration court in respect of disputes between clients and their banks or foreign bank branches related to banking transaction, and also for the purpose of documenting the activities of this standing arbitration court. Standing arbitration courts under the first sentence shall make available and provide<sup>88g</sup> the data specified in Section 93a(1) to (3), Section 91(1), Section 38(3), and Section 92a only to Národná banka Slovenska for the purposes of exercising its powers and competencies and performing its tasks and activities under this Act and under other legislation, to Member States' authorities to the extent necessary for ensuring cooperation in out-of-court resolution of disputes related to banking transactions, and to parties to arbitration proceedings before such standing arbitration courts in the scope necessary for the purposes of arbitration proceedings.

### **Section 93c**

Details on how the data from the Register of Natural Persons<sup>73d</sup> and from the Register of Identity Cards<sup>88ib</sup> are provided in accordance with Sections 89(7) and 93a(9), including the technical conditions for the provision, shall be governed by mutual agreement between the Ministry of Interior and the administrator of a Joint Banking Register pursuant to Section 92a.

## **DIVISION FIFTEEN PROCEEDINGS BEFORE NÁRODNÁ BANKA SLOVENSKA**

### **Section 94**

(1) Proceedings in matters assigned to Národná banka Slovenska under this Act shall be governed by another act,<sup>89</sup> unless this Act or another act<sup>89a</sup> provides otherwise.

(2) Národná banka Slovenska shall decide in first instance on an application as referred to in Sections 30 to 32 within nine months of the date of receipt of a complete application or an application for approval of a change in a bank's articles of association under Section 9(4) within thirty days of the date of receipt of a complete application or an application for prior approval of the nomination and appointment of persons under Section 9(4) within two months of the date of receipt of a complete application. An application for approval or prior approval under Section 9(4) is to be submitted by the bank concerned. An application for prior approval to elect or appoint a member of the bank's statutory body or supervisory board, or to appoint a manager, may also be submitted by any of the



shareholders with a qualifying holding in the bank, provided that the election or removal of such staff members falls within the competence of the bank's general meeting and that the duties of these employees are linked to the duties of statutory body members.

(3) In proceedings as described in paragraph 2, Národná banka Slovenska may, before issuing its decision on the matter, carry out an on-site inspection at the bank to check, if necessary, whether the relevant conditions are met. If Národná banka Slovenska finds that the conditions have been met, it shall make an official record of that fact. This record shall include a description of the actual situation, an assessment of compliance with the conditions referred to in the first sentence, any deficiencies found in the application, the time limits and conditions for removing these deficiencies or a request to supplement the application, and any other relevant facts.

(4) Where the decision to grant prior approval in accordance with Sections 30 to 32 is conditional upon compliance with the requirements set out in the operative part of this decision, the bank shall prove the meeting of these requirements to Národná banka Slovenska within the time limit and scope determined by Národná banka Slovenska. Where fulfilment of these requirements is not proved within this period or scope, Národná banka Slovenska shall modify or cancel the decision. Where different time limits are set for the individual requirements in the operative part, the bank shall prove the meeting of these requirements to Národná banka Slovenska within the respective time limits; otherwise Národná banka Slovenska shall cancel the decision when, with regard to the prescribed time limits, the meeting of the last requirement to be proved is not demonstrated.

(5) An application under this Act may be submitted by the applicant electronically.

(6) In a decree to be promulgated in the Collection of Laws, Národná banka Slovenska shall define what is meant by "electronically" in paragraph 5, the method, form and procedure for submitting applications and their attachments electronically, the types of proceedings in which applications can be submitted electronically and other details of the electronic submission of applications.

## **DIVISION SIXTEEN COMMON, TRANSITIONAL AND FINAL PROVISIONS**

### **Section 114a**

This Act transposes the legally binding acts of the European Union listed in the Annex hereto.

### **Section 114b**

(1) Národná banka Slovenska shall perform the tasks and exercise the powers of a competent supervisory authority<sup>13h</sup> in the Slovak Republic under other legislation,<sup>30x</sup> delegated Commission directive on the issuance of regulatory technical standards or implementing Commission directive on the issuance of implementing technical standards related to other legislation<sup>30x</sup> issued at the suggestion of the European supervisory authority (European Banking Authority).<sup>30zg</sup> Unless other legislation,<sup>30x</sup> delegated Commission directive on the issuance of regulatory technical standards or implementing Commission directive on the issuance of technical standards provide otherwise, Národná banka Slovenska shall proceed in performing these tasks and exercising these powers in accordance with the provisions of this Act and other legislation.<sup>90</sup>

(2) Národná banka Slovenska as a competent supervisory authority<sup>13h</sup> shall apply national discretions under other legislation,<sup>30x</sup> stipulate conditions for the exercise of national discretions in the Slovak Republic, and report these national discretions to the Commission.

(3) In a decree<sup>23</sup> to be promulgated in the Collection of Laws, Národná banka Slovenska shall stipulate requirements, limits, methods, levels, percentage rates, proportions, ratios, indicators, and exceptions for the implementation of Articles 4, 6, 8, 9, 10, 11, 15, 18, 19, 24, 27, 31, 49, 78, 79, 83, 84, 89, 95, 97, 99, 116, 124, 125, 126, 129, 151, 152, 164, 178, 179, 225, 243, 244, 282, 283, 284, 311, 315, 317, 327, 329, 352, 358, 366, 380, 382, 395, 396, 400, 412, 413, 415, 416, 420, 422, 425, 428p, 428q, 428aq, 428ar, 450, 458, 465, 467, 468, 471, 473, 478, 479, 480, 481, 486, 493, 495, 496, 499 and 500 of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013), as amended, and Article 12 of Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions (OJ L 11, 17.1.2015), as amended.

### **Section 115**

The protection of deposits held with banks and foreign bank branches, including interest and other financial benefits accrued on such deposits, shall be governed by other legislation.<sup>32</sup>

### **Section 116**

The provisions of this Act also govern legal relations established before this Act took effect; the establishment of such legal relations, as well as any claims arising therefrom before the effective date of this Act, shall be assessed in accordance with the legislation in effect before that date, unless otherwise provided by this Act.

### **Section 117**

(1) Banks that granted loans or assumed claims on loans granted before 1 January 1990, which have become classified owing to the risk that their principal may not be repaid when and as due in full, will complete the process of loan portfolio restructuring with government participation launched and implemented according to the current legislation.

(2) The government or, on the basis of its authorisation, the Ministry shall be entitled to provide banks as referred to in paragraph 1 with special guarantees for the purposes of loan portfolio restructuring.

(3) If the liabilities of a bank mentioned in paragraph 1 backed by a special guarantee pursuant to paragraph 2 are assumed by another legal person, even a non-bank entity, the guarantee shall be transferred along with the liabilities assumed and shall apply also to the assuming legal person.

(4) If, in the process of loan portfolio restructuring, a bank mentioned in paragraph 1 assigns its loan claims to any other legal person, including a non-bank entity, the requirement set out in Section 38(1) applies to such legal person. A bank mentioned in paragraph 1 may, in the process of loan portfolio restructuring, assign its claims to another legal person even if the duration of default or another condition stipulated in Section 92(8) has not been satisfied.

### **Section 118**

(1) If, after 1 February 1992, a bank suffered a loss on the obligatory provision of loans under legislation issued before 1 February 1992, the bank shall be entitled to compensation for such loss from the state budget in an amount that can be documented by loan agreements under the conditions stipulated in paragraphs 2 and 3.

(2) Banks shall inform the Ministry of the amount of their expected loss within the time limit set for the preparation of a draft state budget for the following fiscal year.

(3) The Ministry shall compensate banks for their actually documented losses, provided that the banks have met their obligations under paragraph 2, but only up to the amount specified in the State Budget Act for the relevant year. Banks shall document the actual amount of their losses to the Ministry within five calendar days from the end of the relevant calendar month, and the Ministry shall pay them compensation for their losses within fifteen days after the losses are documented, unless they agree otherwise.

### **Section 119**

(1) Proceedings started but still pending a valid decision before this Act takes effect shall be completed according to the current legislation, unless this Act provides otherwise. From the effective date hereof, any shortcomings found in the activities of banks, foreign bank branches, and other persons, occurring under the current legislation and not being subject to any proceedings under the current legislation, shall be deemed to be resolved pursuant to this Act, provided they are also deemed to be shortcomings under this Act. From the effective date hereof, however, measures to eliminate an unlawful state, fines, or corrective measures may only be imposed in accordance with this Act. The legal effects of actions that occurred in proceedings before the effective date of this Act are preserved.

(2) The provisions of this Act apply to time limits that have not yet elapsed at the date when this Act takes effect. Where the current legislation did not set time limits for the issuance of decisions or for other acts in proceedings that have started but have not been lawfully completed before this Act becomes effective, the time limits set in this Act apply and start to run on the day when this Act takes effect; where the current legislation set longer time limits for these acts than those defined in this Act, the time limits set in the current legislation apply.

(3) Banks, foreign bank branches, and other persons shall bring their legal relations with third parties arising from activities pursued under the current legislation into line with this Act within six months from the effective date hereof; from the same date, however, no person may carry on an activity that is inconsistent with this Act. Every bank shall, within twelve months of the effective date hereof, modify its articles of association so as to comply with this Act; if a bank fails to adapt any of the provisions of its articles of association to this Act within this time limit, such provisions shall become invalid after the time limit has elapsed.

(4) *Národná banka Slovenska* may also stipulate special conditions for the financing of mortgage and municipal loans for a period of no more than two years from the effective date hereof for a mortgage bank already possessing a mortgage banking authorisation at the effective date hereof, which submits a written request for the determination of such special financing conditions.

### **Section 120**

(1) A banking authorisation granted to a bank or a foreign bank branch under the current legislation and valid as at the date when this Act takes effect shall be deemed to be a banking

authorisation granted under this Act. If the authorisation includes activities that are not banking activities under Section 2(1) and (2), the banking authorisation shall expire in the range of these activities at the effective date hereof.

(2) Application rules issued under Act No 21/1992 on banks in the wording of subsequent regulations, which are valid as at the date when this Act enters into force, shall be deemed to be application rules issued under this Act until new application rules are issued.

### Section 121

(1) The legal form of a bank established as a state financial institution under the current legislation shall be transformed into a joint stock company under another act<sup>1</sup> by a decision of the founder of the state financial institution to be transformed; the foregoing does not apply to a state financial institution whose entire assets and business have been transferred under other legislation<sup>92</sup> before the end of the period set in paragraph 2. A decision to transform a state financial institution into a joint stock company must at least contain the following information: (a) the business name, registered office, and identification number of the bank organised as a state financial institution before transformation;

- (b) the business name and registered office of the bank organised as a joint stock company after transformation;
- (c) the line of business (activity) of the bank organised as a joint stock company after transformation; the line of business (activity) may be defined only in the range of banking activities the state financial institution was authorised to perform at the time of transformation;
- (d) the amount of share capital of the bank organised as a joint stock company after the transformation; the share capital shall be equal in amount to the capital of the state financial institution before transformation;
- (e) the number, type, par value, class, and form of shares which, in accordance with Section 2(6), constitute the share capital of the bank organised as a joint stock company after transformation;
- (f) the articles of association of the bank organised as a joint stock company after transformation attached to the decision on transformation; in addition to the elements stipulated in other legislation,<sup>25</sup> these articles of association must also contain the elements established by this Act;
- (g) the full names, personal identification numbers, and permanent addresses of members of the statutory body of the bank organised as a joint stock company after transformation, and a description of the manner in which they act for and on behalf of the bank;
- (h) the full names, personal identification numbers, and permanent addresses of members of the supervisory board of the bank organised as a joint stock company after transformation.

(2) The founder of a state financial institution shall issue a decision in accordance with paragraph 1 without an invitation to subscribe shares within six months of the date when this Act takes effect. A proposal to register the transformation of a state financial institution into a joint stock company shall be submitted by the founder of the state financial institution being transformed; attached to this proposal shall be a decision pursuant to paragraph 1, which replaces the foundation deed and the founders' decisions to establish a joint stock company without an invitation to subscribe its shares and which, for the purposes of registration in the Commercial Register, shall be a document on facts that should be entered into the Commercial Register in respect of the transformation of a state financial institution into a bank organised as a joint stock company. Such transformation shall take effect on the day when the transformation is recorded into the Commercial Register, whereby all data on the transformation shall be entered into the Commercial Register as at the same date; from the effective date of this Act to the date of transformation, the current legislation applies to the legal relations of a bank organised as a state financial institution.

(3) As of the date of transformation under paragraphs 1 and 2, the share capital of a bank formerly organised as a state financial institution shall become a deposit of the state in the share capital of the bank transformed into a joint stock company, with the state acquiring shares that the share capital is divided into, whereby all shareholder rights attached to these shares held by the state shall be exercised by the Ministry.

(4) As of the date of transformation under paragraphs 1 and 2, the banking authorisation granted to a bank organised as a state financial institution before transformation shall be transferred in full range to the same bank transformed into a joint stock company; the limitation stipulated in Section 9(1) does not apply to this transfer; the banking authorisation shall be deemed to be a banking authorisation under this Act in accordance with the provisions of Section 120(1).

(5) As of the date of transformation under paragraphs 1 and 2, the sources of financing for a bank transformed into a joint stock company shall comprise:

- (a) the bank's own funds consisting of its share capital, funds, and profit for the current year;
- (b) temporarily disposable borrowed funds;
- (c) entrusted funds allocated from the state budget.

(6) As of the date of transformation under paragraphs 1 and 2 without liquidation, all assets, claims, liabilities, and other commercial property of a bank organised as a state financial institution before transformation shall be transferred in full range to the same bank transformed into a joint stock company. Any security for the claims and liabilities of the transforming state financial institution shall remain effective, including government guarantees for liabilities incurred as a result of a decision taken by the relevant state authority, including liabilities incurred as a result of a decision taken prior to the effective date hereof; all rights and obligations under such security and guarantees shall be transferred in full range to the bank transformed into a joint stock company as of the date of transformation pursuant to paragraphs 1 and 2.

(7) Both before and after transformation pursuant to paragraphs 1 and 2, the Ministry shall be entitled to monitor whether a bank's activities under paragraph 1 are in accordance with the applicable laws and other legislation of general application, the bank's articles of association, and decisions taken by the bank's general meeting. The procedure set out in Section 91 does not apply to the disclosure of information to the Ministry's employees assigned to ensure such monitoring, specifically to the extent of the subject of monitoring specified in a written authorisation issued by the Ministry; an original copy of such written authorisation shall be given to the bank in accordance with paragraph 1. The Ministry's employees assigned to perform monitoring activities shall ensure the protection of information and documentation acquired in the course of monitoring so as to protect state secrets, professional secrets, commercial secrets, banking secrecy, tax secrets, and to comply with the duty of confidentiality explicitly imposed or recognised by law; the disclosure of information and documentation acquired during monitoring for the purposes of proceedings under this Act or other legislation<sup>93</sup> shall not be deemed to be a violation of this requirement. Otherwise, the provisions of another legislation<sup>72</sup> apply *mutatis mutandis* to such monitoring.

## Section 122

Banks and foreign bank branches shall at no charge ensure the conversion of funds denominated in the national currencies of European Union Member States into euro, namely funds deposited with banks and foreign bank branches as of 31 December 2001 in currencies set to be retired and replaced by the euro in 2002.

## Section 122a

**Transitional provision for amendments in effect from 1 July 2003**

Legal relations arising from mortgage loan agreements concluded before 1 July 2003 shall be governed by legislation in effect at that time.

**Section 122b****Transitional provisions for amendments in effect from 1 January 2004**

(1) A banking authorisation granted to a bank or a foreign bank branch under the legislation in effect at that time, effective as at 1 January 2004 and granted for the provision of payment and settlement services, shall be deemed to be a banking authorisation for the execution of domestic fund transfers and cross-border fund transfers as from 1 January 2004, in the scope and in the manner specified in this banking authorisation, and according to the terms and conditions stipulated by this banking authorisation or other decisions of Národná banka Slovenska enforceable as from 1 January 2004.

(2) As from 1 January 2004, the provisions of this Act shall also govern legal relations that arose before 1 January 2004 in connection with banking activities or other activities of banks or foreign bank branches, unless provided otherwise hereunder; the rise of such legal relations, as well as any claims arising thereunder before 1 January 2004 shall, however, be judged by the legislation in force at that time. Unless provided otherwise hereunder, banks and foreign bank branches shall, by 31 December 2004 at the latest, harmonise with this Act their legal relations with third parties, including the members of their bodies that were set up before 1 January 2004 in connection with the banking activities or other activities of banks and foreign bank branches; this is without prejudice to the provisions of Section 122a. By 31 December 2004, banks shall also bring their articles of association into line with this Act; if a bank fails to harmonise any of the provisions of its articles of association with this Act by this date, such provisions shall become null and void after 31 December 2004. From the effective date of this Act, it shall not be possible to increase the amount of a mortgage loan by altering the mortgage loan agreement under which a state interest subsidy is granted, the level of which in percentage terms may not be changed during the maturity period of the mortgage loan. If, in a mortgage loan agreement concluded before the effective date of this Act or in another written document based on a mortgage loan agreement and delivered to a mortgage bank before the effective date of this Act, the real property to be pledged as security for the mortgage loan is not designated precisely or if, before the effective date of this Act, no pledge agreement is concluded between the mortgage bank and the client clearly designating the real estate in which a security interest will be established to secure the mortgage bank's claims from the mortgage loan, the mortgage bank and the client shall meet both of these conditions within sixty days of the date when this Act takes effect, or otherwise the claim to a state interest subsidy shall cease to exist.

(3) Receivership proceedings that commenced but were not finally concluded before 1 January 2004 and the conduct of receivership commenced but not completed before 1 January 2004 shall be completed in accordance with legislation in effect as at 31 December 2003. Any other proceedings commenced but not finally concluded before 1 January 2004 shall be brought to their conclusion in accordance with this Act.

(4) The Securities Registration Centre, which temporarily operates under other legislation,<sup>94</sup> shall provide, from the records it maintains, Národná banka Slovenska with information requested thereby for the purposes of banking supervision.

(5) Until 31 December 2006 at the latest, Národná banka Slovenska may stipulate special terms and conditions for financing mortgage loans and municipal loans also for a mortgage bank

which has so requested and which, as at 1 January 2004, has a banking authorisation to conduct mortgage transactions. If a mortgage bank submits a written application to Národná banka Slovenska by 1 January 2004, then, after Národná banka Slovenska issues a valid decision on this application, the mortgage bank shall be entitled to provide for the funding of mortgage loans and municipal loans in accordance with the legislation in effect as at 31 December 2003.

#### **Section 122c**

##### **Transitional provision for amendments in effect from 1 January 2005**

Supplementary supervision shall be conducted after the net worth and results of operations of financial conglomerates for 2005 have been taken into account.

#### **Section 122d**

##### **Transitional provisions for amendments in effect from 1 January 2006**

(1) Proceedings that commenced but were not finally concluded before 1 January 2006 shall be brought to their conclusion in accordance with this Act and another act.<sup>89</sup> The legal effects of actions that occurred in proceedings before 1 January 2006 are preserved.

(2) Any on-site inspections commenced but not completed before 1 January 2006 shall be completed in accordance with this Act and other acts.<sup>89</sup> The legal effects of actions that occurred in an on-site inspection before 1 January 2006 are preserved.

#### **Section 122e**

##### **Transitional provision for amendments in effect from 1 May 2006**

The provisions of this Act shall also govern legal relations arising from municipal loan agreements concluded before 1 May 2006; however, the origination of these legal relations and any claims arising therefrom before 1 May 2006 shall be assessed according to legislation in effect at that time.

#### **Section 122f**

##### **Transitional provisions for amendments in effect from 1 January 2007**

(1) Banks using the internal ratings-based approach to calculate the amount of risk-weighted exposures shall, during 2007, 2008 and 2009, have own funds equal to or more than the amount specified in paragraph 2. Banks using the advanced measurement approach to calculate the capital requirements for operational risk shall have own funds equal to or more than the amount specified in paragraph 2 over the second and third calendar years after 1 January 2007.

(2) Of the total minimum capital requirement defined in legislation in effect as at 31 December 2006, own funds as referred to in paragraph 1 shall account for 95% in 2007, 90% in 2008, and 80% in 2009.

(3) Until 31 December 2007, banks may calculate their risk-adjusted assets and off-balance sheet items according to legislation in effect as at 31 December 2006, instead of using the standardised approach for credit risk.

(4) Where a bank proceeds according to paragraph 3:

(a) credit derivatives shall be included in the list of full-risk items and shall thereby attract a credit weight of 100% under legislation in effect as at 31 December 2006;

(b) the values of credit equivalents for derivative instruments shall be calculated according to legislation in effect as at 31 December 2006, irrespective of whether the on-balance or off-balance sheet items arising therefrom and the values of credit equivalents are deemed to be risk-weighted exposure amounts.

(5) Where a bank proceeds according to paragraph 3, then in respect of exposures for which the standardised approach is used, the provisions pertaining to credit risk mitigation under this Act shall not be applied, but the procedures established by legislation in effect as at 31 December 2006 shall be used.

(6) Where a bank proceeds according to paragraph 3, the capital requirement for operational risk as defined in Section 30(5)(d) shall be lowered by the percentage ratio of the amount of the bank's exposures for which risk-weighted exposure amounts are calculated in accordance with the discretion mentioned in paragraph 3 to the total amount of its exposures.

(7) Where a bank proceeds according to paragraph 3, its exposures are subject to legislation in effect as at 31 December 2006.

(8) Where a bank proceeds according to paragraph 3, all references to the standardised approach for credit risk shall be construed as references to provisions on the calculation of risk-weighted assets under legislation in effect as at 31 December 2006.

(9) Where a bank proceeds according to paragraph 3, the provisions concerning the internal capital adequacy assessment system and those of Section 33f do not apply before 1 January 2008 and the bank's disclosure obligation is subject to legislation in effect as at 31 December 2006.

(10) Where a bank proceeds according to paragraph 3, the provisions of Section 6(2) apply before 1 January 2008 to the extent specified by legislation in effect as at 31 December 2006.

(11) Where a bank proceeds according to paragraph 3, the foreign exchange risk, commodity risk, and risks arising from the trading book are subject to legislation in effect as at 31 December 2006.

(12) *Národná banka Slovenska* may:

- (a) for banks applying to use the internal ratings-based approach before 31 December 2009, approve a reduction in the three-year period prescribed for the use of eligible rating systems to a period of one year until 31 December 2009;
- (b) for banks applying to use their own estimates of loss given default values or conversion factors, approve a reduction in the approved three-year period to a period of two years until 31 December 2008;
- (c) until 31 December 2012, allow banks to continue to apply to participations under other legislation, acquired prior to the date of effect of this Act, the treatment defined in other legislation;
- (d) until 31 December 2017, exempt from the application of the internal ratings-based approach certain equity claims held by a bank or its subsidiary as at 31 December 2007, under the conditions stipulated by other legislation.

(13) Until 31 December 2010, the exposure-weighted average loss given default for all retail exposures, secured by residential properties and not benefiting from state guarantees, may not be lower than 10%.



(14) Banks not permitted to use their own estimates of loss given default values or conversion factors may use relevant data from two years when implementing the internal ratings-based approach, until 31 December 2007 in regard to the observation period. Until 31 December 2010, the observation period shall be extended each year by one year.

(15) For the purpose of calculating the corresponding capital requirement, banks may start using the advanced internal ratings-based approach for credit risk pursuant to Section 33(6) from 1 January 2008.

(16) For the purpose of calculating the corresponding capital requirement, banks may start using the advanced approach pursuant to Section 33d(4) from 1 January 2008.

### **Section 122g** **Transitional provisions in effect from 1 January 2008**

(1) Banks, other banks [Section 5(p)], foreign bank branches, branches of other foreign banks [Section 5(r)], foreign banks, and other foreign institutions carrying on banking activities in the territory of the Slovak Republic [Section 11(1) to (3)] shall, no later than three months before the euro introduction date in the Slovak Republic, prepare and implement measures, rules, and procedures through which they shall, while conducting banking activities, ensure continuous and undisturbed changeover from the Slovak currency to the euro, in particular measures, rules, and procedures applied in the redenomination, conversion, and rounding of funds which they hold as deposits or which are provided by them in the Slovak currency, to the euro.

(2) Banks, other banks, foreign bank branches, branches of other foreign banks, foreign banks, and other foreign institutions conducting banking activities in the territory of the Slovak Republic shall, no later than three months before the euro introduction date in the Slovak Republic and for a period of at least six months following the euro introduction date in the Slovak Republic, publish on their website and on their business premises used in communicating with clients relevant information on measures, rules, and procedures that will be implemented, are implemented, or were implemented for ensuring the changeover from the Slovak currency to the euro.

(3) As at the euro introduction date in the Slovak Republic, banks, other banks, foreign bank branches, branches of other foreign banks, foreign banks, and other foreign institutions conducting banking activities in the territory of the Slovak Republic shall, free of charge, ensure and perform redenomination and conversion of the funds which they hold as deposits or which are provided by them in the Slovak currency, to the euro, at the conversion rate stipulated by this Act and other legislation on the introduction of the euro in the Slovak Republic.<sup>95</sup> The same obligation applies to the redenomination and conversion of funds in any other currency, if that currency ceases to exist and is replaced by the euro, as at the date of its replacement by the euro and in accordance with the fixed conversion rate set for the conversion of that currency to the euro and with other rules applicable to the changeover from that currency to the euro.

### **Section 122h** **Transitional provision**

Banks, other banks, foreign bank branches, branches of other foreign banks, foreign banks, and other foreign institutions conducting banking activities in the territory of the Slovak Republic shall, from the effective date of this Act to the euro introduction day in the Slovak Republic, accept valid Slovak coins in payments and cash deposits, free of charge and without limiting their total number; while accepting valid Slovak coins free of charge, they shall not charge any fees, costs or

consideration for their acceptance, processing, counting, or depositing on accounts, nor for any other procedures or activities related to the acceptance of valid Slovak coins.

### **Section 122i**

#### **Transitional provisions in effect from 1 January 2009**

(1) Prior approval proceedings under Section 28(1)(a), commenced but not finally concluded before 1 January 2009, shall be brought to their conclusion in accordance with legislation in effect at that time.

(2) Funds held on current accounts, deposit accounts, or passbook accounts, certificates of deposit or other materialised securities, which serve in the stage of preparation for the euro changeover as collateral to cover the value of euro banknotes or euro coins provided to clients for their frontloading or sub-frontloading under other legislation,<sup>96</sup> are not be subject to decisions issued under other legislation<sup>97</sup> until the end of dual cash circulation under other legislation on the euro introduction in the Slovak Republic.

(3) Subsequent to the euro changeover, no later than on the second business day following the euro introduction date, banks and foreign bank branches shall block the funds held on accounts on the basis of an execution order or notification of the commencement of execution by establishing claims on these accounts under other legislation,<sup>97</sup> which shall be delivered to the bank or foreign bank branch concerned on the last business day prior to the euro introduction date or on the first business day following the euro introduction date.

### **Section 122j**

#### **Transitional provisions in effect from 1 March 2009**

Banks, other banks, foreign bank branches, branches of other foreign banks, foreign banks, and other foreign institutions conducting banking activities in the territory of the Slovak Republic shall, from 1 March 2009 to 31 August 2009, accept euro banknotes and euro coins in cash deposits free of charge and without limitations to their nominal structure and total number; while accepting euro banknotes and euro coins free of charge, they shall not charge any fees, costs or consideration for their acceptance, processing, or counting, nor for any other procedures or activities related to cash deposits. This is without prejudice to the provisions of other legislation on cash circulation<sup>98</sup> and on the exchange of Slovak banknotes and Slovak coins for euros.<sup>99</sup>

### **Section 122k**

#### **Transitional provision for amendments in effect from 1 December 2009**

A banking authorisation granted to a bank or a foreign bank branch under the existing legislation and effective as at 30 November 2009, applying to the execution of domestic and cross-border funds transfers and to the issuance and administration of payment instruments, shall, as from 1 December 2009, be deemed to be a banking authorisation granted for the provision of payment and settlement services in the scope and manner specified therein and under the terms and conditions stipulated thereby or by other decisions of Národná banka Slovenska legally enforceable as at 1 December 2009.

### **Section 122l**

#### **Transitional provision for amendments in effect from 1 June 2010**

Banks and foreign bank branches shall commence providing a basic banking product within three months of the date when the legislation of general application issued under Section 27c(5) takes effect.

### **Section 122m**

#### **Transitional provisions for amendments in effect from 1 April 2011**

(1) Until 31 December 2012, Národná banka Slovenska shall issue a joint decision in accordance with Section 47(15)(c) within six months.

(2) The provisions of Section 75(4)(h), Sections 75(6) to (8) and 85a(1), Section 85a(3)(a), and Section 85b(9) of the act in effect from 1 April 2011 shall first apply to mortgage loan agreements concluded after 1 April 2011.

(3) Banks using the internal ratings-based approach to calculate the amount of risk-weighted exposures shall, by 31 December 2011, have own funds equal to or more than the amount mentioned in paragraphs 4 and 5. Banks using the advanced measurement approach to calculate the capital requirement for operational risk shall, by 31 December 2011, have own funds equal to or more than the amount mentioned in paragraphs 4 and 5. (4) The amount of own funds pursuant to paragraph 3 shall constitute 80% of the total minimum capital requirement stipulated by legislation in effect as at 31 December 2006.

(5) The amount of own funds pursuant to paragraph 3 shall constitute 80% of the total minimum capital requirement stipulated by legislation in effect as at 31 March 2011, with the prior approval of Národná banka Slovenska and provided that the bank started to use the internal models-based approach or advanced measurement approach to calculate its capital requirements on or after 1 January 2010.

(6) Until 31 December 2012, the exposure-weighted average loss given default for all retail exposures secured by residential properties and not benefiting from state guarantees may not be lower than 10%.

### **Section 122n**

#### **Transitional provisions for amendments in effect from 1 December 2011**

(1) The provisions of this Act also govern legal relations established under this Act before 1 December 2011; the establishment of such legal relations, as well as any claims arising therefrom before 1 December 2011, shall, however, be assessed in accordance with legislation in effect until 30 November 2011, unless subsequent paragraphs of this Act provide otherwise.

(2) A banking authorisation granted to a bank or a foreign bank branch under legislation in effect before 30 November 2011 and effective as at 1 December 2011, applying to the provision of payment and settlement services, shall, as from 1 December 2011, be deemed to be a banking authorisation granted for payment and settlement services, and for electronic money issuance and administration in the scope and manner specified therein and under the terms and conditions stipulated thereby or by other legally enforceable decisions of Národná banka Slovenska.

(3) Banks shall establish and apply remuneration principles in accordance with this Act by 31 July 2012 at the latest.

(4) Banks and other persons as referred to in Section 23a(1) shall bring into line with this Act the clauses of employment contracts, mandate contracts, or other mutual agreements in which the conditions of remuneration or other benefits offered to persons mentioned in Section 23a(1) are determined, by 31 July 2012 at the latest; where banks and other persons under Section 23a(1) fail to bring the clauses of their mutual agreements into line with this Act by 31 July 2012, these clauses shall become null and void on 1 August 2012.

(5) Where the term ‘credit institution’ is used in other legislation of general application, it shall mean a ‘bank’ or ‘electronic money institution’. Where the term ‘foreign credit institution’ is used in other legislation of general application, it shall mean a ‘foreign bank’ or ‘foreign electronic money institution’.

### **Section 122o**

#### **Transitional provisions for amendments in effect from 1 January 2012**

(1) Mortgagors who have taken out a mortgage loan after 31 December 2011 to repay another mortgage loan received before 1 July 2003, to which a state interest subsidy belongs, shall be entitled to receive a state interest subsidy in the amount approved under legislation in effect before 1 July 2003, provided that:

- (a) the interest rate on the new mortgage loan is lower than the interest rate on the mortgage loan granted before 1 July 2003 to which a state interest subsidy belongs; and
- (b) the maturity period of the new mortgage loan is no longer than the residual maturity of the mortgage loan granted before 1 July 2003 to which a state interest subsidy belongs.

(2) The provisions of Section 84(6), as amended with effect from 1 January 2012, shall equally apply to new mortgage loans as referred to in paragraph 1. The provisions of Section 84(6), as amended with effect from 1 January 2012, shall be first applied only after 31 December 2011.

(3) The provisions of Section 75(6), second sentence, as amended with effect from 1 January 2012, concerning:

- (a) the prohibition on charging interest, fees, or other costs incurred in connection with the repayment of a mortgage loan before maturity, shall be first applied when, after 31 December 2011, the initial rate fixation period of the mortgage loan expires or the interest rate on the mortgage loan is next changed;
- (b) the notification obligation of mortgage banks shall be first applied when the initial rate fixation period of a mortgage loan expires on 15 March 2012 or when the interest rate on the mortgage loan is changed on 15 March 2012.

### **Section 122p**

#### **Transitional provisions for amendments in effect from 31 December 2011**

(1) The provisions of this Act also apply to legal relations established under this Act before 31 December 2011; the establishment of such legal relations, as well as any claims arising therefrom before 31 December 2011, shall, however, be assessed in accordance with legislation in effect until 30 December 2011.

(2) Proceedings that commenced but were not finally concluded before 31 December 2011 shall be brought to their conclusion in accordance with this Act. The legal effects of actions that occurred in proceedings before 31 December 2011 are preserved.

### **Section 122q**

**Temporary provisions for amendments in effect from 1 September 2012**

(1) Banks and foreign bank branches shall start providing a basic banking product as from 1 July 2013 at the latest.

(2) The provisions of Section 75(6), second sentence, as amended with effect from 1 January 2012, concerning:

- (a) the prohibition on charging interest, fees, or other costs incurred in connection with the repayment of a mortgage loan before maturity, shall be first applied when, after 31 August 2012, the initial rate fixation period of the mortgage loan expires or the interest rate on the mortgage loan is next changed;
- (b) the notification obligation of mortgage banks shall be first applied when the initial rate fixation period of a mortgage loan expires on 15 November 2012 or when the interest rate on the mortgage loan is changed on 15 November 2012.

(3) The provision of Section 75(11), as amended with effect from 1 September 2012, shall be first applied when the initial rate fixation period of a mortgage loan expires on 15 January 2013, or when the interest rate on a mortgage loan is changed on 15 January 2013.

(4) Mortgage banks shall, by 1 November 2012 at the latest, bring their general terms and conditions for the provision of mortgage loans into line with the provisions of Section 75(1)(h).

**Section 122r****Transitional provision for amendments in effect from 1 January 2013**

A banking authorisation granted to a bank or a foreign bank branch under existing legislation in effect as at 1 January 2013, applying to trading in gold as a money market instrument for own account, shall, as from 1 January 2013, be deemed to be a banking authorisation for trading in gold for own account, in the scope and manner specified therein and under the terms and conditions stipulated thereby or by other decisions of Národná banka Slovenska legally enforceable as at 1 January 2013.

**Section 122s****Transitional provisions for amendments in effect from 10 June 2013**

(1) Legal relations governed by this Act and established before 10 June 2013 are governed by the provisions of this Act as in effect from 10 June 2013; the establishment of such legal relations, as well as any claims arising therefrom before 10 June 2013, shall, however, be assessed in accordance with legislation in effect until 9 June 2013.

(2) Proceedings that commenced but were not finally concluded before 10 June 2013 shall be brought to their conclusion under this Act and another act,<sup>89</sup> while the time limits that have not yet elapsed at the date when this Act takes effect are subject to the provisions of this Act and another act. The legal effects of action that occurred in proceedings before 10 June 2013 are preserved.

(3) Any on-site inspections commenced but not completed before 10 June 2013 shall be completed in accordance with this Act and another act.<sup>89</sup> The legal effects of actions that occurred in an on-site inspection before 10 June 2013 are preserved.

(4) The prohibition mentioned in Section 37(21) shall be first applied to the payment of fees, cost reimbursement, or other payments for the registration, management or administration of loans or

accounts, or for the cancellation of a loan account, which is a condition for a credit relationship, due after 9 June 2013.

(5) The provisions of Section 75(12) shall be first applied to the repayment of mortgage loans of part thereof before maturity after 9 June 2013.

### **Section 122t**

#### **Transitional provisions for amendments in effect from 1 August 2014**

(1) Legal relations governed by this Act and established before 1 August 2014 are governed by the provisions of this Act as in effect from 1 August 2014; the establishment of such legal relations, as well as any claims arising therefrom before 1 August 2014, shall, however, be assessed in accordance with legislation in effect until 31 July 2014, unless paragraphs 2 and 3 provide otherwise.

(2) Banks shall, in accordance with Section 33b(1), maintain a capital conservation buffer of 1.5% of the total risk exposure amount calculated in accordance with other legislation,<sup>30v</sup> from 1 August 2013 to 30 September 2014.

(3) Banks and other persons as referred to in Section 23a(1) shall, by 30 November 2014 at the latest, bring into line with this Act the provisions of their labour contracts, mandate contracts or other agreements, in which the terms of remuneration payment or the payment of other benefits to persons are agreed in accordance with Section 23a(1); if any of the banks or other persons mentioned in Section 23a(1) fail to bring certain provisions of their contracts into line with this Act by 30 November 2014, these provisions shall become null and void with effect from 1 December 2014.

### **Section 122u**

#### **Transitional provisions for amendments in effect from 1 January 2015**

(1) The provisions of Section 36a(1), which take account of Section 75(1)(h) effective from 1 January 2015 and Section 75(4)(a) to (g), including the deviations referred to in Section 36a(2) and (3), shall be first applied to loan agreements concluded after 31 December 2014.

(2) The provisions of Section 36a(1), which take account of the provisions of Section 75(6), (10) and (11), including the deviations referred to in Section 36a(2) and (3), shall be first applied to loans with an interest rate fixation period expiring on 15 March 2015 or to loans with an interest rate changed on 15 March 2015.

(3) The provisions of Section 36(1), which take account of the provisions of Section 75(12), including the deviations referred to Section 36a(2) and (3), shall be first applied to loans repaid before maturity in full or in part after 31 December 2014.

(4) The provisions of Section 36a(4) and (5) shall be first applied to loan agreements concluded after 31 December 2014.

(5) The provisions of Section 75(1)(h), effective from 1 January 2015, shall be first applied to loan agreements concluded after 31 December 2014.

### **Section 122v**

#### **Transitional provisions for amendments in effect from 1 January 2016**

Banks shall maintain a G-SII buffer on a consolidated basis in accordance with Section 33d(4)

in the following amounts:

- (a) from 1 January 2016 to 31 December 2016: 25% of the buffer;
- (b) from 1 January 2017 to 31 December 2017: 50% of the buffer;
- (c) from 1 January 2018 to 31 December 2018: 75% of the buffer;
- (d) from 1 January 2019 to 31 December 2019: 100% of the buffer.

#### **Section 122w**

##### **Transitional provisions for amendments in effect from 1 January 2016**

(1) The provisions of this Act also apply to legal relations established under this Act before 1 January 2016; the establishment of such legal relations, as well as any claims arising therefrom before 1 January 2016, shall, however, shall be assessed in accordance with to legislation in effect until 31 December 2015.

(2) Basic banking products provided to consumers before 31 December 2015 shall be, with effect from 1 January 2016, deemed to be basic banking products within the meaning of Section 27c, effective from 1 January 2016.

(3) Banks and foreign bank branches shall, no later than 1 February 2016, start providing basic banking products as defined in Section 27c (effective from 1 January 2016) and standard accounts as defined in Section 27d.

(4) Banks and foreign bank branches shall, by 31 January 2016, inform consumers of any change in the general agreement affecting the provision of basic banking products within the meaning of Section 27c (effective from 1 January 2016) and standard accounts within the meaning of Section 27d. Compliance with the reporting requirement under Section 37(1) and under other legislation<sup>100</sup> are not subject to a time limit.

(5) The Ministry shall, for the first time, inform the Commission in accordance with Section 27d(21) by 18 September 2018.

(6) Národná banka Slovenska shall, for the first time, inform the Commission in accordance with Section 27d(22) by 18 September 2018.

#### **Section 122x**

##### **Transitional provisions for amendments in effect from 1 July 2016**

Proceedings that commenced but were not finally concluded before 1 July 2016 shall be brought to their conclusion in accordance with legislation in effect until 30 June 2016.

#### **Section 122y**

##### **Transitional provisions for amendments in effect from 1 January 2017**

Legal relations governed by this Act and established before 1 January 2017 are governed by the provisions of this Act as in effect from 1 January 2017; the establishment of such legal relations, as well as any claims arising therefrom before 1 January 2017 shall, however, be assessed in accordance with legislation in effect until 31 December 2016, and time limits that have not expired before 1 January 2017 are subject to the provisions of the Act as in effect from 1 January 2017 and to the provisions of other legislation.<sup>89</sup>

#### **Section 122ya**

**Transitional provisions for amendments in effect from 1 January 2018**

(1) Legal relations and claims arising from mortgage bonds and municipal bonds issued before 1 January 2018 or from mortgage loans and municipal loans provided on the basis of a mortgage loan agreement and a municipal loan agreement concluded before 1 January 2018 shall be, even after 31 December 2017, governed by the provisions of legislation in effect until 31 December 2017 until the full repayment of these mortgage bonds, municipal bonds, mortgage loans and municipal loans, unless paragraphs 2 to 11 stipulate otherwise; even after 31 December 2017, the provisions of paragraphs 2 to 11 shall be without prejudice to the rights and scope of rights of mortgage bond holders, municipal bond holders, mortgage loan borrowers and municipal loan borrowers established before 1 January 2018.

(2) Banking authorisations to conduct mortgage transactions granted to a mortgage bank, which are valid as at 31 December 2017, also apply to the termination of these transactions after 31 December 2017; as of 1 January 2018, neither mortgage bonds and municipal bonds may be issued, nor mortgage loan agreements and municipal loan agreements may be concluded pursuant to legislation in effect until 31 December 2017. As of 1 January 2018, the funding of mortgage loans and municipal loans provided on the basis of a mortgage loan agreement and a municipal loan agreement concluded before 1 January 2018 is not subject to the requirements laid down in legislation in effect until 31 December 2017 concerning the financing of mortgage loans through the issuance and sale of mortgage bonds and the financing of municipal loans through the issuance and sale of municipal bonds.

(3) A bank with a definitive prior approval to perform activities related to a covered bond programme may, from 1 January 2018 until 31 December 2018, re-register from its register of mortgages to its covered bond register mortgage bonds issued before 1 January 2018, mortgage loans provided on the basis of a mortgage loan agreement concluded before 1 January 2018, including mortgage loans under Section 72(2) of this Act as in effect on 31 December 2017, its security interests and claims from mortgage loans provided on the basis of a mortgage loan agreement concluded before 1 January 2018 and other assets that serve as normal or substitute coverage to back mortgage bonds issued before 1 January 2018, provided that this bank ensures that these assets meet the conditions for their inclusion in the cover pool under legislation in effect after 31 December 2017. In the re-registration under the first sentence, the deletion from the register of mortgages and the entry into the covered bond register shall occur on the same day.

(4) From the moment of their entry into the covered bond register, the mortgage bonds issued by the bank before 1 January 2018 and recorded in the bank's covered bond register in accordance with this Act shall be deemed covered bonds under legislation in effect after 31 December 2017, retaining and without prejudice to their name "mortgage bond" and retaining and without prejudice to the rights and obligations related to the mortgage bond; this shall be without prejudice to the possibility of changing the issue conditions under paragraph 5 or other legislation.<sup>101</sup> The bank shall, without delay, publish on its website information regarding each issuance of mortgage bonds that are deemed covered bonds, including the date, from which they are deemed covered bonds.

(5) As the issuer of mortgage bonds issued before 1 January 2018, a bank with a definitive prior approval to perform activities related to a covered bond programme may, without requiring the consent of their holders pursuant to other legislation,<sup>52a</sup> carry out a one-time amendment to the issue conditions of these mortgage bonds so as to ensure their compliance with the conditions laid down for covered bonds and covered bond programmes under legislation in effect after 31 December 2017; nevertheless, even after 31 December 2017 the rights and scope of rights of holders of mortgage bonds issued before 1 January 2018 must be preserved or they must be more advantageous, with the



provisions of Section 67(10) to (13) as in effect before 1 January 2018 not applying to these mortgage bonds even in the event of an amendment to the issue conditions; these mortgage bonds are not subject to the LTV ratio requirement laid down in Section 71(1)(b) of this Act as in effect from 1 January 2018 if the ratio were to be less advantageous for the secured liability than the percentage applied in accordance with legislation in effect until 31 December 2017.

(6) After amending the issue conditions of mortgage bonds issuances using the procedure in paragraph 5, a bank shall, without delay, publish in the same manner as with the original issue conditions and also on its website information on the amendment to the issue conditions, stating the effective date of the amendment, the consolidated text of the issue conditions and information on the rights and entitlements of the holders of mortgage bonds under paragraph 7; when amending the issue conditions of mortgage bonds issued before 1 September 2014, a bank shall, after amending the issue conditions, demonstrably send in writing to each holder of the mortgage bonds from this issuance information on the amendment to the issue conditions, stating the effective date of the amendment, the consolidated text of the issue conditions and information on the rights and entitlements of the holder of mortgage bonds under paragraph 7; otherwise, the disclosing, submitting and provision of such amendments to the issue conditions of mortgage bonds shall be governed by the provisions of other legislation.<sup>102</sup>

(7) If the holders of mortgage bonds affected by the amendment to the issue conditions carried out by a bank using the procedure in paragraph 5 do not agree with the amendment, they have the right to apply to the bank for an early repayment of the mortgage bonds, including the proportionate yield in accordance with the original issue conditions, within three months from the date of publishing the information on the amendment to the issue conditions in the same manner as with the original issue conditions and also on the website of the issuing bank, and, in the case of holders of mortgage bonds issued before 1 September 2014, within three months from the date of delivery of the written notification from the bank in accordance with paragraph 6. Within 30 days of delivery of the application for early repayment, the bank shall reimburse to the mortgage bond holder their mortgage bond, including the proportionate yield in accordance with the original issue conditions.

(8) A bank holding as at 31 December 2017 a valid authorisation to conduct mortgage transactions and activities related to a covered bond programme shall be entitled, after 31 December 2017, to cover its mortgage bonds with assets that meet the conditions for their inclusion in the cover pool of a covered bond programme in accordance with legislation in effect after 31 December 2017, provided that it is able to maintain the overall scope and coverage ratio of mortgage bonds in line with the conditions stipulated for mortgage transactions under legislation in effect until 31 December 2017. A mortgage bank holding as at 31 December 2017 a valid authorisation to conduct mortgage transactions and which, after 31 December 2017, is not authorised to perform activities related to a covered bond programme shall be, after 31 December 2017, entitled to cover its mortgage bonds also using liabilities from its loans, which have a maturity of at least four years, are secured by a security interest established in a real property and are not considered mortgage loans under legislation in effect until 31 December 2017, to the extent necessary to maintain the overall scope and coverage ratio of mortgage bonds issued by this mortgage bank in line with legislation in effect until 31 December 2017. A mortgage bank holding as at 31 December 2017 a valid authorisation to conduct mortgage transactions and which, after 31 December 2017, is not authorised to perform activities related to a covered bond programme shall be, after 31 December 2017, entitled to cover its municipal bonds also using liabilities from its loans, which have a maturity of at least four years, are secured by a security interest established in a real property owned by a municipality or a higher territorial unit and are not considered municipal loans under legislation in effect until 31 December 2017, to the extent necessary to maintain the overall scope and coverage ratio of municipal bonds issued by this mortgage bank in line with legislation in effect until 31 December 2017.

(9) The registers of mortgages under legislation in effect until 31 December 2017 shall be kept by the mortgage banks to maturity of their mortgage bonds and municipal bonds issued before 1 January 2018 and stored together with the documents underlying the records in the registers of mortgages during five years from the date when the mortgage bonds and municipal bonds became due; after this period, the registers shall cease to exist. A register of mortgages shall also cease to exist when a bank with a valid prior approval for the performance of activities related to a covered bond programme re-registers, in accordance with paragraph 3, from its register of mortgages to a covered bond register all mortgage bonds issued before 1 January 2018, as well as all mortgage loans provided before 1 January 2018 on the basis of a mortgage loan agreement, security interests and liabilities from mortgage loans provided on the basis of a mortgage loan agreement concluded before 1 January 2018 and other assets that serve as normal or substitute coverage to back mortgage bonds issued before 1 January 2018 and meet the conditions for their inclusion in the cover pool under legislation in effect after 31 December 2017, provided that the bank's register of mortgages does not contain records of municipal bonds issued before 1 January 2018 or municipal loans provided on the basis of a municipal loan agreement concluded before 1 January 2018; a register of mortgages shall also cease to exist if, after re-registration under paragraph 3, it were to contain only records of assets used to back mortgage bonds issued before 1 January 2018 that do not meet the conditions for their inclusion in the cover pool under legislation in effect after 31 December 2017.

(10) The rights and duties, responsibilities, methods of appointment and dismissal, qualification requirements and other legal relations which concern the mortgage controllers and their deputies and which are related to the mortgage business, register of mortgages and mortgage business supervision, shall continue to be governed after 31 December 2017 by the provisions of legislation in effect until 31 December 2017 until the full repayment of mortgage bonds and municipal bonds issued before 1 January 2018; this shall be without prejudice to the provisions of paragraphs 2 to 9. The functions of the mortgage controller and their deputy appointed to a mortgage bank shall cease to exist on the day of full repayment of mortgage bonds and municipal bonds issued by the mortgage bank before 1 January 2018; this shall be without prejudice to the provisions of paragraphs 2 to 9. The function of a mortgage controller shall be compatible with the function of a covered bond administrator, provided that both functions are performed for the same bank; if performed for the same bank, this also applies to the functions of the deputy mortgage controller and the covered bond programme deputy administrator. Under the second sentence of Section 80(5), *Národná banka Slovenska* shall maintain a list of mortgage controllers and deputy mortgage controllers for mortgage banks up until their functions cease to exist in accordance with the second sentence hereof.

(11) The loans secured by a security interest in a real property provided by a bank on the basis of an agreement concluded before 1 January 2018, which are not subject to paragraph 3, may be used as primary assets in the cover pool, provided that they meet the conditions defined for covered bond programmes in legislation in effect after 31 December 2017 and that the bank is authorised to perform activities related to a covered bond programme.

(12) In the case of mortgage loan agreements concluded before 1 January 2018, legislation in effect until 31 December 2017 shall govern the entitlement to a state interest subsidy under Section 84(1) of the version of this Act in effect until 31 December 2017 and the state interest subsidy for young people under Section 85a(1) of the version of this Act in effect until 31 December 2017, the calculation of a state interest subsidy and a state interest subsidy for young people, the claiming of a state interest subsidy and a state interest subsidy for young people, the provision of a state interest subsidy and a state interest subsidy for young people and the expiry of claim to a state interest subsidy and state interest subsidy for young people.

(13) The claiming, payment and clearing of a state interest subsidy and a state interest subsidy for young people under paragraph 12, as well as their returning to the state budget shall be governed by legislation in effect until 31 December 2017.

(14) The keeping of a central register of mortgage loan agreements for which a state interest subsidy or a state interest subsidy for young people under paragraph 12 is claimed, the provision of information on total claims to state interest subsidies and state interest subsidies for young people under paragraph 12, and the provision of summary data on the purposes for which mortgage loans have been provided on the basis of a mortgage loan agreement concluded before 1 January 2018 shall be governed by legislation in effect until 31 December 2017.

(15) The exercise of state supervision of compliance with the terms and conditions stipulated for the provision of a state interest subsidy and state interest subsidy for young people under paragraph 12 to mortgage loan agreements concluded before 1 January 2018 and the imposition of obligations and sanctions based on the deficiencies identified during the exercise of state supervision shall be governed by legislation in effect until 31 December 2017; this also applies to the state supervision procedures that are not completed before 31 December 2017.

(16) The requirement to calculate the liquid asset buffer under Section 74(3)(b) of this Act shall be phased in as follows:

- (a) as of 1 January 2018, the calculation for the period of the following 31 to 180 days shall include both inflows and outflows from interests in full and outflows from principal multiplied by the coefficient of 0.6;
- (b) as of 1 January 2019, the calculation for the period of the following 31 to 180 days shall include both inflows and outflows from interests in full and outflows from principal multiplied by the coefficient of 0.8;
- (c) as of 1 January 2020, the calculation for the period of the following 31 to 180 days shall include both inflows and outflows from interests in full and outflows from principal in full.

### **Section 122yb**

#### **Transitional provisions for amendments in effect from 1 January 2019**

(1) Legal relations established before 1 January 2019 during the performance of the depository function under other legislation<sup>24ca</sup> on the basis of banking authorisation granted to a bank or foreign bank branch to perform activities under Section 2(2)(m) of this Act as in effect before 31 December 2018 shall be, after 31 December 2018, considered legal relations established during the performance of the depository function<sup>24ca</sup> by a bank or foreign bank branch holding a banking authorisation to perform investment services, investment activities and auxiliary services under Section 2(2)(b).

(2) Banking authorisations granted to banks or foreign bank branches to perform depository functions under Section 2(2)(m) of this Act as in effect before 31 December 2018 and valid as at 31 December 2018 shall be, as of 1 January 2019, considered banking authorisations granted within the scope of Section 2(2)(m) of this Act as in effect from 1 January 2019.

### **Section 122yc**

#### **Transitional provisions for amendments in effect from the date of promulgation**

Investment firms which meet the requirements set out in other legislation<sup>103</sup> and which were authorised as at 24 December 2019 to provide investment services in accordance with other legislation<sup>104</sup> shall, by 27 December 2020, apply to Národná banka Slovenska for an authorisation under Sections 7 to 20, as amended effective on the date of promulgation.

**Section 122yd**  
**Transitional provisions for amendments in effect from 29 December 2020**

(1) Parent financial holding companies and parent mixed financial holding companies which must be granted an approval in accordance with Section 20a(1) and which were performing their activities as at 27 June 2019 shall, by 28 June 2021, apply to Národná banka Slovenska for an approval under Section 20a. Where a financial holding company or mixed financial holding company fails to apply for an approval under Section 20a before 28 June 2021, Národná banka Slovenska shall impose on it a corrective measure in accordance with Section 20b.

(2) Third-country groups which were performing their activities as at 27 June 2019 through more than one institution in a Member State and whose total value of assets in Member States as at this day was equal to or greater than EUR 40,000,000,000 shall, by 30 December 2023, establish an intermediate EU parent undertaking in accordance with Section 20c(1) or two intermediate EU parent undertakings in accordance with Section 20c(2).

(3) The risk referred to in Section 31a or the risks referred to in other legislation,<sup>30x</sup> which pose a threat of understatement despite meeting the applicable requirements set out in other legislation,<sup>30ba</sup> shall not be considered as risks until 27 June 2021.

**Section 122ye**  
**Transitional provisions for amendments in effect from 8 July 2022**

(1) Covered bonds issued before 8 July 2022 meeting the requirements laid down in this Act as in effect until 7 July 2022 shall be considered covered bonds in accordance with this Act as in effect from 8 July 2022 without the issuing bank of these covered bonds being obliged to amend their issue conditions to comply with the requirements under this Act; in relation to such covered bonds, the issuing bank of these covered bonds is subject to the requirements laid down in this Act as in effect until 7 July 2022. This also applies to tap issues of such covered bonds whose ISIN was assigned before 8 July 2022, provided such issues meet the following requirements:

- (a) the issue date of the covered bonds is before 8 July 2024;
- (b) the maturity date of the covered bonds is before 8 July 2027;
- (c) the total issue size of tap issues made after 8 July 2022 does not exceed twice the total issue size of the covered bonds outstanding on 8 July 2022;
- (d) the total size of such issues from the same bank issuing covered bonds does not exceed EUR 6,000,000,000; and
- (e) the real property serving as collateral for the primary asset of these tap issues is located in the territory of the Slovak Republic.

(2) Covered bonds issued before 8 July 2022 by a bank issuing covered bonds shall, from the fulfilment of the conditions laid down in this Act as in effect from 8 July 2022, be considered covered bonds in accordance with legislation in effect from 8 July 2022 without any effect on their name or on the rights and obligations associated with such covered bonds; this is without prejudice to the possibility to change the emission conditions in accordance with the provisions of paragraph 3 or other legislation.<sup>101</sup> Such a bank is obliged to publish on its website without delay information on every issue of covered bonds including the date from which it is considered a covered bond in accordance with this Act as in effect from 8 July 2022.

(3) A bank issuing covered bonds can begin to be in compliance with the requirements of this Act as in effect from 8 July 2022 in respect of covered bonds issued before 8 July 2022 other than

those covered by paragraph 1 from the date when the programme of these covered bonds is amended in accordance with paragraph 4 and the issue conditions of these covered bonds are amended to comply with the conditions for covered bonds and covered bond programmes in legislation as in effect from 8 July 2022; at the same time, even after 7 July 2022, the collateral for these covered bonds must comply with Sections 70 and 71(1) and (2) as in effect until 7 July 2022 and the rights and scope of rights of the owners of covered bonds issued before 8 July 2022 must be preserved or be more favourable provided the rights were established before 8 July 2022, and if the second sentence does not stipulate otherwise, the rights and scope of rights must be preserved for the owners of mortgage bonds entered in the covered bond register between 1 January 2018 and 31 December 2018 pursuant to Section 122ya(3), provided that such rights were established before 1 January 2018 and these mortgage bonds are not subject to the LTV ratio requirement laid down in Section 71(2) as in effect from 8 July 2022 or other legislation,<sup>105</sup> if this ratio would be less favourable for the secured claim for payment than the percentage ratio applied under legislation as in effect until 31 December 2017. From the date when the covered bond programme is amended in accordance with paragraph 4, the mortgage bonds entered in the covered bond register between 1 January 2018 and 31 December 2018 pursuant to Section 122ya(3) are subject to the provisions of Section 82(3) to (13) as in effect from 8 July 2022. A bank that is the issuer of covered bonds can amend their issue conditions in accordance with the first and second sentences on a one-time basis, without requiring the consent of their owners in accordance with other legislation,<sup>52a</sup> until 31 December 2023.

(4) Prior approval granted to a bank that is the issuer of covered bonds under Section 28(1)(f) as in effect until 7 July 2022 which is valid as of 8 July 2022 and which covers activities related to a covered bond programme under Section 67(5) as in effect until 7 July 2022 shall be considered, after fulfilment of the conditions laid down in this Act as in effect from 8 July 2022 by the bank issuing covered bonds, as prior approval for the commencement of activities related to a first covered bond programme under Section 28(1)(f) as in effect from 8 July 2022 for an asset type under Section 70(1)(b). To prove compliance with the conditions under the first sentence, the bank must notify Národná banka Slovenska in advance and in writing of the changes in this covered bond programme and the conditions under which it was granted prior approval under Section 28(1)(f) as in effect until 7 July 2022.

(5) After amending the issue conditions of a covered bond issue using the procedure in paragraph 3, a bank issuing covered bonds shall, without delay, publish in the same manner as with the original issue conditions and also on its website, information on the wording of the amendment of the issue conditions, including the effective date of the amendment, the consolidated text of the issue conditions and information on the rights and claims of the holders of covered bonds issued before 8 July 2022 and mortgage bonds entered in the covered bond register between 1 January 2018 and 31 December 2018 pursuant to Section 122ya(3); when amending the issue conditions of mortgage bonds issued before 1 September 2014 that were entered in the covered bond register between 1 January 2018 and 31 December 2018 pursuant to Section 122ya(3), a bank shall, after amending the issue conditions, demonstrably send in writing to each holder of the mortgage bonds from this issue the text of the amendment to the issue conditions, including the effective date of the amendment, the consolidated text of the issue conditions and information on the rights and claims of the holder of mortgage bonds under paragraph 6; otherwise, the disclosing, submitting and provision of such amendments to the issue conditions of mortgage bonds shall be governed by the provisions of other legislation.<sup>102</sup>

(6) If the owner of a covered bond issued before 8 July 2022 or the owner of a mortgage bond entered in the covered bond register between 1 January 2018 and 31 December 2018 pursuant to Section 122ya(3) affected by a change of issue conditions by the bank issuing the covered bonds pursuant to paragraph 3 does not agree with the change in the issue conditions, they have the right to

request early repayment of the covered bond or mortgage bond from the bank including a proportionate yield in accordance with the original issue conditions up to three months from the date when information on the amendment of the issue conditions was published in the same way as the original issue conditions and on the bank's website; in the case of the owner of a mortgage bond issued before 1 September 2014 entered in the covered bond register between 1 January 2018 and 31 December 2018 pursuant to Section 122ya(3), early repayment can be requested up to three months from the delivery date of written information sent by the bank in accordance with paragraph 5. Within 30 days of delivery of the application for early repayment, the bank shall reimburse the covered bond holder or mortgage bond holder for their covered bond or mortgage bond, including the proportionate yield in accordance with the original issue conditions.

(7) Legal relations and claims arising from covered bonds issued before 8 July 2022 and mortgage bonds entered in the covered bond register between 1 January 2018 and 31 December 2018 pursuant to Section 122ya(3) in relation to which the bank issuing the covered bonds does not take any of the actions under paragraphs 2 to 6, are subject to the provisions of legislation in effect to 7 July 2022 until the full redemption of these covered bonds and mortgage bonds.

(8) A bank with valid prior approval under Section 28(1)(f) may, from 8 July 2022 until 31 December 2023, re-register, from its register of mortgages to its covered bond register, mortgage bonds issued before 1 January 2018, mortgage loans provided on the basis of a mortgage loan agreement concluded before 1 January 2018, including mortgage loans under Section 72(2) of this Act as in effect until 31 December 2017, its security interests and claims for payment of the bank from mortgage loans provided on the basis of a mortgage loan agreement concluded before 1 January 2018 and other assets that serve as normal or substitute coverage for mortgage bonds issued before 1 January 2018, provided that this bank ensures that these assets meet the conditions for their inclusion in the cover pool under legislation in effect from 8 July 2022. In the re-registration under the first sentence, the bank shall ensure that deletion from the register of mortgages and entry into the covered bond register occurs on the same day.

(9) From the moment of their entry into the covered bond register, the mortgage bonds issued by the bank before 1 January 2018 and recorded in the bank's covered bond register in accordance with this Act shall be classified as covered bonds under legislation in effect from 8 July 2022, without changing or affecting their label "mortgage bond" and without changing or affecting the rights and obligations related to the mortgage bonds; this shall be without prejudice to the possibility of changing the issue conditions under paragraph 11 or other legislation.<sup>101</sup> The bank shall, without delay, publish on its website information regarding each issue of mortgage bonds that are classified as covered bonds, including the date, from which they are classified as covered bonds.

(10) The register of mortgages shall cease to exist when a bank that has valid prior approval under Section 28(1)(f) re-registers, in accordance with paragraph 8, from its register of mortgages to a covered bond register all mortgage bonds issued before 1 January 2018, as well as all mortgage loans provided before 1 January 2018 on the basis of a mortgage loan agreement, security interests and claims for payment of the bank from mortgage loans provided on the basis of a mortgage loan agreement concluded before 1 January 2018 and other assets that serve as normal or substitute coverage for mortgage bonds issued before 1 January 2018 and meet the conditions for their inclusion in the cover pool under legislation in effect from 8 July 2022, provided that the bank's register of mortgages does not contain records of municipal bonds issued before 1 January 2018 or municipal loans provided on the basis of a municipal loan agreement concluded before 1 January 2018; a register of mortgages shall also cease to exist if, after re-registration under paragraph 3, it were to contain only records of assets covering mortgage bonds issued before 1 January 2018 that do not meet the conditions for their inclusion in the cover pool under legislation in effect from 8 July 2022.

(11) A bank that is the issuer of mortgage bonds issued before 1 January 2018 and has valid prior approval under Section 28(1)(f) may, without requiring the consent of the bond owners under other legislation,<sup>52a</sup> amend the issue conditions of these mortgage bonds on a one-time basis in the extent necessary to meet the requirements laid down for covered bonds and a covered bond programme in legislation in effect from 8 July 2022; at the same time, the rights and scope of rights of the owners of mortgage bonds issued before 1 January 2018 must be preserved or be more favourable, unless the second sentence stipulates otherwise, and these mortgage bonds are not subject to the LTV ratio requirement laid down in Section 71(2) as in effect from 8 July 2022 or other legislation,<sup>105</sup> if this ratio would be less favourable for the secured claim for payment than the percentage ratio applied under legislation as in effect until 31 December 2017. A bank that is the issuer of mortgage bonds issued before 1 January 2018 and has valid prior approval under Section 28(1)(f) may, without requiring the consent of the bondholders in accordance with other legislation,<sup>52a</sup> amend the issue conditions of these mortgage bonds on a one-time basis in the extent necessary for the application to them of the provisions Section 82(3) to (13) as in effect from 8 July 2022.

(12) After amending the issue conditions of mortgage bonds issues using the procedure in paragraph 11, a bank shall, without delay, publish, in the same manner as with the original issue conditions and also on its website, information on the amendment to the issue conditions, including the effective date of the amendment, the consolidated text of the issue conditions and information on the rights and claims of the holders of mortgage bonds under paragraph 13; when amending the issue conditions of mortgage bonds issued before 1 September 2014, a bank shall, after amending the issue conditions, demonstrably send in writing to each holder of the mortgage bonds from this issue information on the amendment to the issue conditions, including the effective date of the amendment, the consolidated text of the issue conditions and information on the rights and claims of the holder of mortgage bonds under paragraph 13; otherwise, the disclosing, submitting and provision of such amendments to the issue conditions of mortgage bonds shall be governed by the provisions of other legislation.<sup>102</sup>

(13) If the holders of mortgage bonds affected by the amendment to the issue conditions carried out by a bank using the procedure in paragraph 11 do not agree with the amendment, they have the right to request early repayment of the mortgage bonds from the bank, including a proportionate yield in accordance with the original issue conditions, up to three months from the date of publishing the information on the amendment to the issue conditions in the same manner as with the original issue conditions and also on the website of the bank, and, in the case of holders of mortgage bonds issued before 1 September 2014, up to three months from the date of delivery of the written notification from the bank in accordance with paragraph 12. Within 30 days of delivery of the request for early repayment, the bank shall reimburse the mortgage bond holder for their mortgage bond, including a proportionate yield in accordance with the original issue conditions.

(14) A bank holding as at 31 December 2017 a valid authorisation to conduct mortgage transactions and activities related to a covered bond programme shall be entitled, from 8 July 2022, to cover its mortgage bonds with assets that meet the conditions for their inclusion in the cover pool of a covered bond programme in accordance with legislation as in effect from 8 July 2022, provided that it is able to maintain the overall scope and coverage ratio of the mortgage bonds in line with the conditions stipulated for mortgage transactions under legislation in effect until 31 December 2017.

(15) Loans secured by a security interest in a real property provided by a bank on the basis of an agreement concluded before 8 July 2022 to which paragraph 1 does not apply may be used as primary assets in the cover pool, provided that they meet the conditions defined for covered bond

programmes in legislation as amended with effect from 8 July 2022 and that the bank is authorised to perform activities related to a covered bond programme.

### **Section 122yf**

#### **Transitional provisions for amendments in effect from 1 January 2022**

A bank or foreign bank branch that does not open and maintain special payment accounts under other legislation<sup>27fbc</sup> as of 1 January 2022 must open and maintain special payment accounts under other legislation<sup>27fbc</sup> no later than 1 January 2023.

### **Section 122z**

#### **Repealing provision**

This Act repeals Decree No 11/2010 of Národná banka Slovenska of 8 June 2010 stipulating methods for valuing banking book positions and details of the valuation of banking book positions, including the frequency of such valuations (Notification No 278/2010), as amended by Decree No 4/2012 (Notification No 45/2012).

### **Section 123**

This Act repeals the following: Act No 21/1992 on banks, as amended by Act No 264/1992, Act No 249/1994, Act No 374/1994, Act No 58/1995, Act No 233/1995, Act No 58/1996, Act No 118/1996, Act No 386/1996, Act No 12/1998, Act No 44/1998, Act No 170/1998, Act No 252/1999, Act No 215/2000, Act No 329/2000, Act No 367/2000 and Act No 149/2001.

### **Section 123a**

This Act repeals Decree No 290/2010 of the Ministry of Finance of the Slovak Republic on the range and method of payment services provided in euro for basic banking products.

### **Section 123b**

#### **Repealing provision in effect from 1 January 2018**

This Act repeals Decree No 600/2001 of Národná banka Slovenska and the Ministry of Finance of the Slovak Republic on the register of mortgage loans and on the details on the position and activity of the mortgage administrator and his or her representative, as amended by Decree No 661/2004.

### **Section 123c**

#### **Repealing provision in effect from 1 January 2019**

This Act repeals Decree No 126/2003 of the Ministry of Finance of the Slovak Republic stipulating the scope, method and periods for reporting of financial statements and data from accounting records and statistical records by banks and foreign bank branches to the Ministry of Finance of the Slovak Republic and Národná banka Slovenska.

## **ARTICLE VI**

### **Date of effect**



This Act took effect on 1 January 2002, with the exception of the following: Article V, which took effect on the date of the Act's promulgation; Article I Sections 2(8), the part of the sentence after the semicolon, 11 to 20, 45(2) and 49(3), which took effect on the date of the entry into force of the 2003 Treaty of Accession to the European Union (1 May 2004).

Act No 430/2002 and Act No 510/2002 took effect on 1 September 2002.

Act No 165/2003 took effect on 1 July 2003.

Act No 603/2003 took effect on 1 January 2004.

Act No 215/2004 took effect on 1 May 2004.

Act No 554/2004 took effect on 1 January 2005.

Act No 340/2005 and Act No 341/2005 took effect on 1 September 2005.

Act No 747/2004 and Act No 69/2005 took effect on 1 January 2006.

Act No 214/2006 took effect on 1 May 2006.

Act No 644/2006 took effect on 1 January 2007.

Act No 209/2007 took effect on 1 November 2007, with the exception of Article VI, points 5 to 8, which took effect on 1 May 2007.

Act No 659/2007 took effect on 1 January 2008 and on the euro adoption date in the Slovak Republic (1 January 2009).

Act No 297/2008 took effect on 1 September 2008.

Act No 552/2008 took effect on 1 January 2009, with the exception of the following: Article III, points 35 to 37 (in respect of Sections 68, 69, 71 and 72(4)) and 49 (Section 122h), Article IX, and Article X, all of which took effect on 13 December 2008; Article I, points 5 (Sections 7(9) and 53a(3)), 12 (Section 10(4)), 15 (Section 29) and 110 (Section 173k), which took effect on 1 February 2009; Article VIII, point 37 (Section 97(5)), which took effect on 1 January 2010.

Act No 66/2009 took effect on 1 March 2009.

Act No 276/2009 took effect on 10 July 2009.

Act No 492/2009 took effect on 1 December 2009, with the exception of Article XI, point 17 (in respect of Sections 88a to 88d), which took effect on 1 April 2010.

Act No 186/2009 took effect on 1 January 2010.

Act No 129/2010 took effect on 2 April 2010, with the exception of Article IV, points 1 to 21 and 23 to 27, which took effect on 1 June 2010.

Act No 46/2011 took effect on 1 April 2011.

Act No 130/2011 took effect on 30 June 2011.

Act No 394/2011 took effect on 1 December 2011.

Act No 520/2011 took effect on 31 December 2011.

Act No 314/2011 took effect on 1 January 2012.

Act No 234/2012 took effect on 1 September 2012.

Act No 352/2012 took effect on 1 January 2013.

Act No 132/2013 took effect on 10 June 2013.

Act No 547/2011, as amended by Acts No 440/2012 and 352/2013, took effect on 1 January 2014.

Act No 352/2013 took effect on 1 January 2014.

Act No 213/2014 took effect on 1 August 2014, with the exception of the following: Article I, point 9 (in respect of Section 6(13), (16), (28) and (29)), 25, 55, 106, and 107, and Article I, point 52 (Section 33d), all of which took effect on 1 January 2016.

Act No 371/2014 took effect on 1 January 2015.

Act No 374/2014 took effect on 1 January 2015.

Act No 35/2015 took effect on 1 April 2015.

Act No 252/2015 took effect on 1 November 2015.

Act No 359/2015 took effect on 1 January 2016.

Act No 392/2015 took effect on 1 January 2016.

Act No 405/2015 took effect on 1 January 2016.

Act No 437/2015 took effect on 1 January 2016.

Act No 90/2016 took effect on 21 March 2016.

Act No 91/2016 took effect on 1 July 2016.

Act No 125/2016 took effect on 1 July 2016.

Act No 292/2016 took effect on 1 December 2016.

Act No 298/2016 took effect on 1 January 2017.

Act No 299/2016 took effect on 1 January 2017.

Act No 315/2016 took effect on 1 February 2017.

Act No 2/2017 took effect on 1 February 2017.

Act No 264/2017 took effect on 1 January 2018.

Act No 279/2017 took effect on 15 December 2017, with the exception of the following: Article I, points 1 to 33, 34 (in respect of Sections 67 to 75 and 77 to 80) and 35 to 41, which took effect on 1 January 2018; Article I, point 34 (Section 76), which took effect on 1 January 2019.

Act No 18/2018 took effect on 25 May 2018.

Act No 89/2018 took effect on 1 April 2018.

Act No 108/2018 took effect on 1 May 2018.

Act No 109/2018 took effect on 1 January 2018.

Act No 177/2018 took effect on 1 September 2018, with the exception of Article XL, points 1 to 4, which took effect on 1 January 2019.

Act No 345/2018 took effect on 1 January 2019.

Act No 6/2019 took effect on 1 February 2019.

Act No 30/2019 took effect on 1 June 2019.

Act No 54/2019 took effect on 1 March 2019.

Act No 211/2019 took effect on 1 August 2019, with the exception of the following: Article I, point 40, which took effect on 1 January 2020; Article II (in respect of Section 34d), which took effect on 1 February 2020; Article I, points 38 and 66 (Section 60i), which took effect on 1 July 2020.

Act No 305/2019 took effect on 1 January 2020, with the exception of the following: Article I, points 1, 2 and 9 to 12, and Article II, all of which took effect on 1 July 2020.

Act No 390/2019 took effect on 1 January 2020.

Act No 340/2020 took effect on 28 November 2020, with the exception of the following: Article I, points 1 to 38, 42 to 58, 61 to 117, 118 (in respect of Section 122yd), 119 and 120, which took effect on 29 December 2020; Article I, points 39 to 41, which took effect on 28 June 2021; Article I, points 59 and 60, which took effect on 1 January 2022.

Act No 423/2020 took effect on 1 January 2021.

Act No 209/2021 took effect on 26 June 2021 with the exception of the following: Article VI, which took effect on 30 June 2021; Article I, point 13, which took effect on 10 November 2021; Article I, points 1, 4, 9, 71, 72 and 104, and Article III, points 1 and 8, all of which took effect on 1 January 2022; Article I, points 5, 6, 12, 50, 52, 53, 60, 61 and 98, and Article III, points 2 to 7, all of which took effect on 1 March 2022.

Act No 310/2021 took effect on 1 September 2021 with the exception of the following:

(a) Article I, points 1, 3 and 8 to 10, Article II, points 2 to 6, Article III, Article IV, points 4 to 9, Articles V to VII, Article VIII, points 1 and 2, Articles IX to XIV, Article XV, points 1 to 4 and 6 to 9, Article XVI, Article XVII, points 1 to 3 and 5, Article XVIII, points 2 to 5, Article XIX, Article XX, points 1 and 3, Article XXI, Article XXII, points 1 and 2, Article XXIII, points 1 to 3, Article XXIV, points 3 to 5, Articles XXV to XXXIII, Article XXXV, Articles XXXVII, Article XXXVIII, Article XLII, points 2 to 5 and 7 to 10, Articles XLIV to XLVIII, Articles L to LV, Article LVIII, points 1, 2, 4 to 10 and 12, Articles LIX to LXIII, and Articles LXV to LXIX, all of which took effect on 1 January 2022;

(b) Article I, point 4, Article II, point 1, Article IV, points 1 and 2, Article XXII, points 3 to 5, Article XXXIV, Article XXXIX, Article XLI, Article LVI, Article LVII, and Article LXIV, all of which took effect on 1 April 2022;

(c) Article I, points 2, 5 and 6, Article IV, point 3, Article VIII, point 3, Article XVIII, point 1, Article XXIII, points 4 and 5, Article XXIV, points 1 and 2, Articles XL, and Article XLIX, all of which took effect on 1 December 2022;

(d) Article I, point 7, Article XVII, point 4, Article XX, point 2, Article XXXVI, Article XLII, points 1, 6 and 11, Article XLIII, and Article LVIII, points 3 and 11, all of which took effect on 1 January 2024.

Act No 454/2021 took effect on 10 December 2021 with the exception of the following: Article IV, point 2, which took effect on 1 January 2022; Article I, points 3 to 7, 9 to 11, 15 to 28, 31 and 32, Article II, Article VI, Article VIII, points 12 and 22 to 24, and Article IX, points 2 and 3, all of which took effect on 8 July 2022.

Act No 431/2021 took effect on 1 December 2021 with the exception of the following: Article I, points 1, 2, 5 to 7, 9 to 79 and 86 to 155, and Articles II to VI, all of which took effect on 1 January 2022; Article I, points 3, 4, 8 and 80 to 85, which took effect on 1 June 2022.

Act No 512/2021 took effect on 1 January 2022 with the exception of the following: Article I, point 83, Article II, point 36, Article III, and Article IV, all of which took effect on 1 April 2022.

Act No 92/2022 took effect on 30 March 2022.

Act No 123/2022 took effect on 1 May 2022.

Act No 302/2023 took effect on 1 October 2023.

Act No 309/2023 took effect on 1 August 2023 with the exception of the following: Article XIV, points 3 to 5 and 23 to 29, which took effect on 1 January 2024; Article I, Article II, points 1 to 16, Article III, Article IV, points 1, 2 and 4, Articles V to XIII, Article XIV, points 1, 8 to 22 and 30 to 38, Articles XV to XX, Article XXI, points 2, 3, 8, 55, 76, 93 and 94, Article XXII, point 6, Articles XXIII to XXXII, Article XXXIII, point 2, and Article XXXIV, all of which took effect on 1 March 2024; Article II, point 17, Article IV, points 3 and 5, Article XXI, points 1, 4 to 7, 9 to 54, 56 to 75, 77 to 92, 95 to 126, 128 to 130 and 131 (in respect of Section 206q), Article XXII, points 1 to 5 and 7, and Article XXXIII, points 1, 4 and 5, all of which take effect on 1 January 2025.

Act No 508/2023 took effect on 1 January 2024.

Act No 526/2023 took effect on 1 January 2024.

**Rudolf Schuster [signed]**  
**Jozef Migaš [signed]**  
**Mikuláš Dzurinda [signed]**

\* \* \*

Annex to Act No 483/2001, as amended

**SCHEDULE OF LEGALLY BINDING ACTS OF THE EUROPEAN UNION  
ENACTED IN SLOVAK LAW BY THIS ACT**

1. Directive 2001/24/EC of the European Parliament and of the Council of 4 April 2001 on the reorganisation and winding up of credit institutions (OJ L 125, 5.5.2001, Special Edition in Slovak: Chapter 06 Volume 04).
2. Directive 2002/87/EC of the European Parliament and of the Council of 16 December 2002 on the supplementary supervision of banks, insurance undertakings and investment firms in a financial conglomerate and amending Council Directives 73/239/EEC, 79/267/EEC, 92/49/EEC, 92/96/EEC, 93/6/EEC and 93/22/EEC, and Directives 98/78/EC and 2000/12/EC of the European Parliament and of the Council (OJ L 35, 11.2.2003, Special Edition in Slovak: Chapter 06 Volume 04).
3. Directive 2005/1/EC of the European Parliament and of the Council of 9 March 2005 amending Council Directives 73/239/EEC, 85/611/EEC, 91/675/EEC, 92/49/EEC and 93/6/EEC and Directives 94/19/EC, 98/78/EC, 2000/12/EC, 2001/34/EC, 2002/83/EC and 2002/87/EC in order to establish a new organisational structure for financial services committees (OJ L 79, 24.3.2005).
4. Directive 2009/111/EC of the European Parliament and of the Council of 16 September 2009 amending Directives 2006/48/EC, 2006/49/EC and 2007/64/EC as regards banks affiliated to central institutions, certain own funds items, large exposures, supervisory arrangements, and crisis management (OJ L 302, 17.11.2009).
5. Directive 2009/110/EC of the European Parliament and of the Council of 16 September 2009 on the taking up, pursuit and prudential supervision of the business of electronic money institutions amending Directives 2005/60/EC and 2006/48/EC and repealing Directive 2000/46/EC (OJ L 267, 10.10.2009).
6. Directive 2011/89/EU of the European Parliament and of the Council of 16 November 2011 amending Directives 98/78/EC, 2002/87/EC, 2006/48/EC and 2009/138/EC as regards the supplementary supervision of financial entities in a financial conglomerate (OJ L 326, 8.12.2011).
7. Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC (OJ L 176, 27.06.2013).
8. Directive 2014/59/EU of the European Parliament and of the Council of 15 May 2014 establishing a framework for the recovery and resolution of credit institutions and investment firms and amending Council Directive 82/891/EEC and Directives 2001/24/EC, 2002/47/EC, 2004/25/EC, 2005/56/EC, 2007/37/EC, 2011/36/EC, 2011/35/EC, 2012/30/EU, and 2013/36/EU, and Regulations (EU) No 1093/2010 and (EU) No 648/2012, of the European Parliament and of the Council (OJ L 173, 12.06.2014).
9. Directive 2014/65/EU of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Directive 2002/92/EC and Directive 2011/61/EU (recast) (OJ L 173, 12.6.2014) as amended by Regulation (EU) No 909/2014 (OJ L 257, 28.8.2014) and

Directive (EU) 2016/1034 (OJ L 175, 30.6.2016).

10. Directive 2014/92/EU of the European Parliament and of the Council of 23 July 2014 on the comparability of fees related to payment accounts, payment account switching and access to payment accounts with basic features (OJ L 257, 28.8.2014).
11. Directive (EU) 2019/878 of the European Parliament and of the Council of 20 May 2019 amending Directive 2013/36/EU as regards exempted entities, financial holding companies, mixed financial holding companies, remuneration, supervisory measures and powers and capital conservation measures (OJ L 150, 7.6.2019).
12. Directive (EU) 2019/2034 of the European Parliament and of the Council of 27 November 2019 on the prudential supervision of investment firms and amending Directives 2002/87/EC, 2009/65/EC, 2011/61/EU, 2013/36/EU, 2014/59/EU and 2014/65/EU (OJ L 314, 5.12.2019).
13. Directive (EU) 2019/2162 of the European Parliament and of the Council of 27 November 2019 on the issue of covered bonds and covered bond public supervision and amending Directives 2009/65/EC and 2014/59/EU (OJ L 328, 18.12.2019).

\* \* \*

Endnotes

- <sup>1</sup> Act No 513/1991 – the Commercial Code, as amended.
- <sup>1a</sup> Section 6 of Act No 566/2001 on securities and investment services (and amending certain laws) (the Securities Act).
- <sup>1aa</sup> Section 2(1) of Act No 492/2009 on payment services (and amending certain laws).
- <sup>1ab</sup> Article 4(1), point (1), of Regulation (EU) No 575/2013 of the European Parliament and of the Council of 26 June 2013 on prudential requirements for credit institutions and investment firms and amending Regulation (EU) No 648/2012 (OJ L 176, 27.6.2013).
- <sup>1ac</sup> Article 4(1)(1)(b) of Regulation (EU) No 575/2013, as amended.
- <sup>1ad</sup> Section 6(1)(c) and (f) of Act No 566/2001, as amended.
- <sup>2</sup> Sections 313 to 322 of the Commercial Code.
- <sup>3</sup> Sections 682 to 691 of the Commercial Code.
- <sup>4</sup> Section 31(2) of Act No 566/1992 on Národná banka Slovenska, as amended by Act No 149/2001.
- <sup>5</sup> Act No 43/2004 on the old-age pension scheme (and amending certain laws), as amended.
- <sup>5a</sup> Article 4(1)(42) of Regulation (EU) No 575/2013.
- <sup>5b</sup> For example: Sections 12 to 34 of Act No 747/2004, as amended.
- <sup>6</sup> For example: Act No 594/2003; Act No 186/2009.
- <sup>6a</sup> Article 4(1)(17) of Regulation (EU) No 575/2013.
- <sup>7</sup> Sections 21(3) and (4) and 28(3) of the Commercial Code.
- <sup>8</sup> For example: Act No 566/1992, as amended; Act No 747/2004 on financial market supervision (and amending certain laws), as amended; Act No 492/2009; Guideline of the European Central Bank of 31 August 2000 on monetary policy instruments and procedures of the Eurosystem (ECB/2000/7) (OJ, Special Edition in Slovak: Chapter 10 Volume 001).
- <sup>9</sup> Act No 492/2009.
- <sup>9a</sup> Act No 186/2009 on financial intermediation and financial advisory services (and amending certain laws), as amended by Act No 129/2010.
- <sup>9b</sup> Section 12 of Act No 392/2015 on development cooperation (and amending certain laws).
- <sup>10</sup> Section 19(1) of Act No 595/2003 on income tax.
- <sup>11</sup> For example: Act No 124/1996 on the State Housing Development Fund, as amended.
- <sup>12</sup> For example: Act No 492/2009; Act No 507/2001 on postal services, as amended.
- <sup>13</sup> Act No 530/1990 on bonds, as amended.
- <sup>13a</sup> Sections 5(f) to (i) and 8(d) of Act No 566/2001.
- <sup>13b</sup> Sections 25 to 32 of Act No 429/2002 on stock exchanges.
- <sup>13ba</sup> Article 4(1)(73) of Regulation (EU) No 575/2013.
- <sup>13c</sup> Section 1(2)(a) of Act No 186/2009.
- <sup>13d</sup> Section 708 of the Commercial Code.
- <sup>13e</sup> Article 4(1)(27) of Regulation (EU) No 575/2013.
- <sup>13f</sup> Article 4(1)(92) of Regulation (EU) No 575/2013.  
Section 3(1) of Act No 429/2002, as amended by Act No 209/2007.
- <sup>13g</sup> Article 4(1)(93) of Regulation (EU) No 575/2013.
- <sup>13h</sup> Article 4(1)(40) of Regulation (EU) No 575/2013.
- <sup>13i</sup> Article 4(1)(98) of Regulation (EU) No 575/2013;  
Act No 566/1992, as amended.
- <sup>13j</sup> Article 4(1)(45) and (46) of Regulation (EU) No 575/2013.
- <sup>13k</sup> Article 4(1)(3) of Regulation (EU) No 575/2013.
- <sup>13l</sup> Article 4(1)(61) of Regulation (EU) No 575/2013.
- <sup>13m</sup> Article 4(1)(26) of Regulation (EU) No 575/2013.  
Section 49(5)(c) and (d) of Act No 8/2008 on insurance (and amending certain laws).  
Act No 492/2009, as amended.
- <sup>13ma</sup> Act No 253/1998 on reporting the residence of citizens of the Slovak Republic and the register of inhabitants of the Slovak Republic, as amended;  
Act No 480/2002 on asylum (and amending certain laws), as amended;  
Act No 404/2011 on the residence of foreigners (and amending certain laws), as amended.
- <sup>13mb</sup> Section 2(9) of Act No 492/2009.
- <sup>13mc</sup> Section 167o(3) of Act No 7/2005 on bankruptcy and restructuring (and amending certain laws), as amended.
- <sup>13n</sup> Sections 118(2), 119(2), 151a to 151me and 555 of the Civil Code, as amended;  
Act No 162/1995 on the Land Register and on the registration of ownership and other rights in immovable property (the Land Register Act), as amended.
- <sup>13na</sup> Article 4(1)(138) of Regulation (EU) No 575/2013, as amended.
- <sup>13o</sup> Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European supervisory authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010), as amended.
- <sup>14</sup> For example: the Code of Civil Dispute Procedure; Act No 244/2002 on arbitration proceedings, as amended; Sections 90 to 95 of Act No 492/2009.
- <sup>15</sup> For example: Act No 747/2004, as amended; Act No 566/2001, as amended; Act No 8/2008, as amended; Act No 492/2009, as amended; Act No 203/2011 on collective investment, as amended.
- <sup>15a</sup> Sections 6 to 11 of Act No 747/2004 on financial market supervision (and amending certain laws), as amended.
- <sup>16</sup> Sections 99 to 111 of Act No 566/2001, as amended.
- <sup>17</sup> Sections 3 to 17 and Sections 34 to 45 of Act No 540/2007 on auditors, audit and audit oversight (and amending Act No 431/2002 on accounting, as amended), as amended.

- 17a Sections 10(3) and 26 of Act No 297/2008, as amended.
- 18 For example: Sections 40 and 41 of Act No 566/1992, as amended.
- 19 Article 19 of Regulation (EU) No 1093/2010.
- 20 Article 135(2) of Regulation (EU) No 575/2013;  
Article 18(3) of Regulation (EU) No 1060/2009 of the European Parliament and of the Council of 16 September 2009 on credit rating agencies (OJ L 302, 17.11.2009), as amended.
- 20a Articles 92, 93 to 386 of Regulation (EU) No 575/2013, as amended.
- 20b Article 32 of Regulation (EU) No 1093/2010.
- 20c Article 177 of Regulation (EU) No 575/2013.
- 20d Articles 387 to 403 of Regulation (EU) No 575/2013.
- 20e Articles 362 to 377 of Regulation (EU) No 575/2013.
- 20f Article 105 of Regulation (EU) No 575/2013.
- 20g Article 4(1)(94) of Regulation (EU) No 575/2013, as amended.
- 20h Article 429 of Regulation (EU) No 575/2013, as amended.
- 21 Section 2 of Act No 310/1992 on home savings, as amended by Act No 242/1999.
- 21a Act No 297/2008 on the prevention of money laundering and terrorist financing (and amending certain laws).
- 22a Sections 54 and 55 of Act No 566/2001, as amended.
- 22b Section 64(2)(j) of Act No 492/2009.
- 22c Section 82(2)(j) of Act No 492/2009.
- 23 Section 1(1) of Act No 1/1993 on the Collection of Laws of the Slovak Republic, as amended by Act No 44/1998.
- 23a Article 4(1)(36) of Regulation (EU) No 575/2013.
- 23b Article 4(1)(38) of Regulation (EU) No 575/2013.
- 24 Section 13(1) to (6) and Section 14(3)(f) of Act No 330/2007 on the criminal register (and amending certain laws).
- 24a For example: Section 8(b) of Act No 566/2001, as amended; Section 4(11) of Act No 429/2002, as amended by Act No 747/2004; Section 48(11) of Act No 43/2004, as amended by Act No 747/2004, Section 23(11) of Act No 650/2004 on the supplementary pension scheme (and amending certain laws); Section 3(a) of Act No 8/2008 as amended; Section 23(1) of Act No 186/2009, as amended; Section 2(31) of Act No 492/2009, as amended by Act No 394/2011; Section 28(10) of Act No 203/2011 on collective investment.
- 24aa Section 3 of Act No 7/2005 on bankruptcy and restructuring (and amending certain laws), as amended by Act No 520/2005.
- 24aaa Article 4(1)(16) of Regulation (EU) No 575/2013.  
Section 22(4) of Act No 431/2002, as amended by Act 561/2004.
- 24aaaa Sections 10(4) and (5) and 13(4) of Act No 330/2007 on the criminal register (and amending certain laws) as amended.
- 24aab Article 4(1)(15) of Regulation (EU) No 575/2013.  
Section 22(3) of Act No 431/2002, as amended.
- 24aac Article 4(1)(37) of Regulation (EU) No 575/2013.  
Section 22(3) and (4) of Act No 431/2002, as amended.
- 24aad Section 54 of Act No 566/2001, as amended.
- 24b Section 36(1) and (2) of the Civil Code.
- 24c Sections 1(2), 6(3) and 8(3) of Regulation No 42/2004 of the Government of the Slovak Republic on the Commercial Bulletin, as amended by Regulation No 76/2005 of the Government of the Slovak Republic.
- 24ca For example: Act No 43/2004, as amended; Act No 650/2004, as amended; Sections 35a to 35k of Act No 747/2004, as amended; Act No 203/2011, as amended.
- 24d Section 29(3) of Act No 297/2008.
- 24e Section 2(2) of Act No 492/2009.
- 24f Sections 143(a) to 143(o) of Act No 566/2001, as amended.  
Sections 124 to 138 of Act No 39/2015 on insurance (and amending certain laws), as amended by Act No 437/2015.
- 24g Act No 566/2001, as amended.  
Act No 39/2015, as amended.
- 24h Article 4(1)(110) of Regulation (EU) No 575/2013, as amended.
- 24i Act No 566/2001, as amended;  
Regulation (EU) No 600/2014 of the European Parliament and of the Council of 15 May 2014 on markets in financial instruments and amending Regulation (EU) No 648/2012 (OJ L 173, 12.6.2014), as amended.
- 24j Article 4(1)(2) of Regulation (EU) No 575/2013, as amended.
- 25 Sections 173 and 174 of the Commercial Code.
- 25a Articles 8(1)(l) and 76(4) of Regulation (EU) No 1093/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European supervisory authority (European Banking Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/78/EC (OJ L 331, 15.12.2010).
- 25aa Article 4(1)(52) of Regulation (EU) No 575/2013.
- 25ac Article 4(1)(34) of Regulation (EU) No 575/2013.
- 25ad Article 4(1)(57) of Regulation (EU) No 575/2013.
- 25ae Articles 143(1), 221, 225, 259(3), 312(2), 283 and 363 of Regulation (EU) No 575/2013.
- 25af Article 52 or 63 of Regulation (EU) No 575/2013.
- 25ag Article 4(1)(146) of Regulation (EU) No 575/2013, as amended.
- 25ah Article 450(1)(g),(h),(i) and (k) of Regulation (EU) No 575/2013, as amended.
- 26a Section 2(2) and Section 23 of the Commercial Code.
- 26b Section 2 of Act No 429/2002.
- 26c Article 4(1)(18) of Regulation (EU) No 575/2013.
- 26d For example: Act No 213/1997, as amended; Act No 34/2002, as amended.



- <sup>26da</sup> International Accounting Standard 28 of Annex to Commission Regulation (EC) No 1126/2008 of 3 November 2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council (OJ L 320, 29.11.2021), as amended.
- <sup>26e</sup> Article 435(2)(b) and (c) of Regulation (EU) No 575/2013.
- <sup>26f</sup> Articles 433 and 435(2)(c) of Regulation (EU) No 575/2013.
- <sup>26g</sup> Article 113(7) of Regulation (EU) No 575/2013.
- <sup>26ga</sup> Section 34 of Act No 423/2015 on statutory audit (and amending Act No 431/2002 on accounting, as amended).
- <sup>26h</sup> Articles 326 to 350 of Regulation (EU) No 575/2013.
- <sup>26i</sup> Article 345 of Regulation (EU) No 575/2013.
- <sup>27</sup> The Labour Code.
- <sup>27a</sup> Sections 7 and 8 of Act No 186/2009.
- <sup>27b</sup> Section 13 of Act No 186/2009.
- <sup>27c</sup> Section 5(3) of Act No 186/2009.
- <sup>27d</sup> Section 21(3)(a) of Act No 186/2009.
- <sup>27e</sup> Section 22 of Act No 186/2009.
- <sup>27f</sup> Section 52(4) of the Civil Code.
- <sup>27fa</sup> Section 716 of the Commercial Code.
- <sup>27fba</sup> Section 81 of Act No 404/2011, as amended by Act No 75/2013.  
Section 65 of the Criminal Code, as amended.
- <sup>27fbb</sup> Section 2(2) of Act No 566/2001, as amended by Act No 659/2009.
- <sup>27fbc</sup> Act No 365/2004 on equal treatment in certain areas and protection against discrimination (and amending certain laws) (the Anti-Discrimination Act), as amended.
- <sup>27fbd</sup> Section 167o(4) of Act No 7/2005 on bankruptcy and restructuring (and amending certain laws), as amended.
- <sup>27fbe</sup> Sections 3(2) and (4), 5(5) and (6) and 6(8) and (9) of Act No 181/2014 on election campaigns (and amending Act No 85/2005 on political parties and political movements) as amended
- <sup>27fbf</sup> Sections 3, 5 and 6 of Act No 181/2014, as amended.
- <sup>27g</sup> Section 6(1)(f) of Act No 566/2001, as amended by Act No 209/2007.
- <sup>28</sup> Sections 476 to 488 of the Commercial Code.
- <sup>28a</sup> Sections 32 to 83 and 195a of Act No 7/2005, as amended.
- <sup>28b</sup> Section 5 of the Commercial Code;  
Section 28 of the Labour Code, as amended by Act No 348/2007.
- <sup>28c</sup> Section 478 of the Commercial Code;  
Sections 42a and 42b of the Civil Code, as amended.
- <sup>29</sup> Act No 136/2001 on the protection of competition (and amending Act No 347/1990 on the organisation of ministries and other central government authorities of the Slovak Republic), as amended.
- <sup>30</sup> Section 116 of the Civil Code.
- <sup>30a</sup> Article 4(1)(118) of Regulation (EU) No 575/2013.
- <sup>30aa</sup> Section 9(1)(l) of Act No 371/2014.
- <sup>30b</sup> Articles 92 to 386 of Regulation (EU) No 575/2013.
- <sup>30ba</sup> Parts Three, Four and Seven of Regulation (EU) No 575/2013, as amended;  
Chapter 2 of Regulation (EU) 2017/2402 of the European Parliament and of the Council of 12 December 2017 laying down a general framework for securitisation and creating a specific framework for simple, transparent and standardised securitisation, and amending Directives 2009/65/EC, 2009/138/EC and 2011/61/EU and Regulation (EC) No 1060/2009 and (EU) No 648/2012 (OJ L 347, 28.12.2017).
- <sup>30bb</sup> Article 92(1a) of Regulation (EU) No 575/2013, as amended.
- <sup>30bc</sup> Article 92(1)(a), (b) and (c) of Regulation (EU) No 575/2013, as amended.
- <sup>30bd</sup> Article 92(1)(d) of Regulation (EU) No 575/2013, as amended.
- <sup>30be</sup> Article 393 of Regulation (EU) No 575/2013, as amended.
- <sup>30bf</sup> Parts Three and Four of Regulation (EU) No 575/2013, as amended;  
Chapter 2 of Regulation (EU) 2017/2402.
- <sup>30bg</sup> Parts Three and Seven of Regulation (EU) No 575/2013, as amended.
- <sup>30c</sup> Articles 142 to 150 of Regulation (EU) No 575/2013.
- <sup>30d</sup> Article 147(2) of Regulation (EU) No 575/2013.
- <sup>30e</sup> Article 147(2)(a) to (c) of Regulation (EU) No 575/2013.
- <sup>30f</sup> Articles 143 and 144 of Regulation (EU) No 575/2013.
- <sup>30g</sup> Article 145 of Regulation (EU) No 575/2013.
- <sup>30h</sup> Articles 144(1) and 145 of Regulation (EU) No 575/2013.
- <sup>30i</sup> Article 360 of Regulation (EU) No 575/2013.
- <sup>30j</sup> Articles 363 to 377 of Regulation (EU) No 575/2013.
- <sup>30k</sup> Article 366 of Regulation (EU) No 575/2013.
- <sup>30ka</sup> Article 4(1)(145) of Regulation (EU) No 575/2013, as amended.
- <sup>30l</sup> Articles 312 to 320 of Regulation (EU) No 575/2013.
- <sup>30la</sup> Article 4(1)(134) of Regulation (EU) No 575/2013, as amended.
- <sup>30m</sup> Article 50 of Regulation (EU) No 575/2013.
- <sup>30n</sup> Article 4(1)(20) of Regulation (EU) No 575/2013.
- <sup>30o</sup> Article 4(1)(22) of Regulation (EU) No 575/2013.
- <sup>30p</sup> Article 4(1)(28) of Regulation (EU) No 575/2013.
- <sup>30r</sup> Article 4(1)(30) of Regulation (EU) No 575/2013.
- <sup>30s</sup> Article 4(1)(29) of Regulation (EU) No 575/2013.
- <sup>30t</sup> Article 4(1)(31) of Regulation (EU) No 575/2013.

- 30ta Article 4(1)(21) of Regulation (EU) No 575/2013.
- 30tb Article 4(1)(32) of Regulation (EU) No 575/2013.
- 30tc Article 4(1)(33) of Regulation (EU) No 575/2013.
- 30td Articles 92a and 92b of Regulation (EU) No 575/2013, as amended.
- 30u Article 92 of Regulation (EU) No 575/2013.
- 30v Article 92(3) of Regulation (EU) No 575/2013.
- 30w Articles 6 to 24 of Regulation (EU) No 575/2013.
- 30wa Article 4 of Regulation (EU) No 806/2014 of the European Parliament and of the Council of 15 July 2014 establishing uniform rules and a uniform procedure for the resolution of credit institutions and certain investment firms in the framework of a Single Resolution Mechanism and a Single Resolution Fund and amending Regulation (EU) No 1093/2010 (OJ L 225, 30.7.2014), as amended.
- 30wb Regulation (EU) No 806/2014, as amended.
- 30x Regulation (EU) No 575/2013.
- 30y Title II of Part I of Regulation (EU) No 575/2013.
- 30za Article 16 of Regulation (EU) No 1092/2010.
- 30zb Articles 107 to 311 of Regulation (EU) No 575/2013.
- 30zc Articles 112(a) to (f) of Regulation (EU) No 575/2013.
- 30zd Articles 326 to 350 of Regulation (EU) No 575/2013.
- 30ze Articles 362 to 377 of Regulation (EU) No 575/2013.
- 30zf Articles 242 to 270 of Regulation (EU) No 575/2013.
- 30zg Articles 10 to 14 of Regulation (EU) No 1093/2010.
- 30zh Article 26(2) of Regulation (EU) No 575/2013.
- 30zj Article 26(1)(a) of Regulation (EU) No 575/2013.
- 30zk Article 26(1)(b) to (e) of Regulation (EU) No 575/2013.
- 30zka Article 92(1)(a) of Regulation (EU) No 575/2013, as amended.
- 30zkb Article 92(1)(b) of Regulation (EU) No 575/2013, as amended.
- 30zkc Article 92(1)(c) of Regulation (EU) No 575/2013, as amended.
- 30zkd Article 429(4) of Regulation (EU) No 575/2013, as amended.
- 30zl Article 124(2) of Regulation (EU) No 575/2013.
- 30zm Article 125(2)(d) of Regulation (EU) No 575/2013.
- 30zn Article 126(2)(d) of Regulation (EU) No 575/2013.
- 30zo Article 164(5) of Regulation (EU) No 575/2013.
- 30zp Article 458(2)(d) of Regulation (EU) No 575/2013.
- 30zr Article 458(5) of Regulation (EU) No 575/2013.
- 30zs Article 458(10) of Regulation (EU) No 575/2013.
- 30zt Section 9 of Act No 266/2005.  
Section 27 of Act No 250/2007, as amended.
- 30zu Section 44 of Act No 566/1992, as amended.
- 30zv Section 7(h) of the Code of Administrative Court Procedure.
- 30zx Section 3(1) of Act No 371/2014 on resolution in the financial market, as amended.
- 30zy Section 2(f) of Act No 371/2014, as amended by Act No 39/2015.
- 30zz Section 2(j) of Act No 371/2014.
- 30zza Article 19 of Regulation (EU) No 1093/2010, as amended.
- 30zzaa Article 4(1)(29) of Regulation (EU) No 575/2013, as amended.
- 30zzb Section 84 of Act No 371/2014.
- 30zzc Section 16(3) to (5) of Act No 747/2004, as amended.
- 31 Article 12(12.1) of the Protocol on the Statute of the European System of Central Banks and of the European Central Bank (OJ C 321E, 29.12.2006).  
Section 28(2) of Act No 566/1992, as amended.
- 32 Act No 118/1996 on the protection of deposits (and amending certain laws), as amended.
- 32a Act No 129/2010, as amended.
- 32b Sections 1 to 8, 9 to 19, 20(8), 21 and 25e(1), (5) and (6) of Act No 129/2010 on consumer credit and on other credit and loans for consumers (and amending certain laws), as amended by Act No 35/2015.
- 32c Sections 8a, 20(1) to (7), 20a to 20e, 23, 24 and 25e(2) to (4), (7) and (8) of Act No 129/2010, as amended by Act No 35/2015.
- 33 Section 22c of Act No 118/1996, as amended.  
Sections 31 to 42 of Act No 492/2009, as amended.  
Articles 431 to 455 of Regulation (EU) No 575/2013.
- 33a Section 2(36) of Act No 492/2009, as amended by Act No 405/2015.
- 33b Section 38(3) to (5) of Act No 492/2009, as amended by Act No 405/2015.
- 33c Section 34(d) of Act No 492/2009, as amended by Act No 405/2015.
- 34 Section 23 of Act No 431/2002, as amended.
- 35 Section 20(2) of Act No 431/2002.
- 35a Section 2 of Act No 147/2001 on advertising (and amending certain laws), as amended.
- 35aa Article 432 of Regulation (EU) No 575/2013.
- 35aaa Section 7(4) of Act No 566/2001.
- 35aab Article 178 of Regulation (EU) No 575/2013, as amended.
- 35b Act No 250/2007 on the protection of consumers (and amending Act No 372/1990 on non-indictable offences, as amended), as amended.
- 35ba Sections 6 and 7 of Act No 182/1993, as amended.
- 35bb Sections 6 and 8 of Act No 182/1993, as amended.

- <sup>35bc</sup> Section 2(2) of Act No 182/1993, as amended.
- <sup>35c</sup> Section 2(1)(d) and (9) of Act No 492/2009.
- <sup>35d</sup> Section 77(7) of Act No 566/2001, as amended; Section 35(2) of Act No 747/2004, as amended.  
Decree No 17/2011 of Národná banka Slovenska of 22 November 2011 on reporting for statistical purposes by banks, branches of foreign banks, investment firms and branches of foreign investment firms (Notification No 24/2012).
- <sup>35da</sup> For example: Regulation (EU) No 2016/867 of the European Central Bank of 18 May 2016 on the collection of granular credit and credit risk data (ECB/2016/13) (OJ L 144, 1.6.2016).
- <sup>36</sup> Section 36 of Act No 566/1992, as amended.
- <sup>37</sup> Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016).  
Act No 18/2018 on the protection of personal data (and amending certain laws).
- <sup>37a</sup> Section 5 of Act No 566/2001.
- <sup>37aa</sup> Act No 80/1997 on the Export-Import Bank of the Slovak Republic, as amended.
- <sup>37aaa</sup> Section 13 of Act No 305/2013, as amended.
- <sup>37aab</sup> Section 31a of Act No 305/2013, as amended.
- <sup>37aac</sup> Section 5(1)(a) of Act No 305/2013.
- <sup>37aad</sup> Article 3(12) of Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014).
- <sup>37aae</sup> Section 23a of Act No 305/2013, as amended.
- <sup>37ab</sup> Sections 41 and 42 of Act No 747/2004, as amended.
- <sup>37aba</sup> For example: Section 27 of the Commercial Code as amended; Sections 60 to 60b of Act No 455/1991 as amended; Sections 20 and 21 of Act No 540/2001 on government statistics, as amended; Sections 170(3) and 226(1)(e) of Act No 461/2003 on social insurance, as amended; Act No 530/2003, as amended.
- <sup>37abb</sup> Sections 7b(6) and 8b(1) of Act No 182/1993, as amended.
- <sup>37ac</sup> Article 4(1)(86) of Regulation (EU) No 575/2013.
- <sup>38</sup> Sections 2(4)(a) and (b) and 24 to 29 of Act No 431/2002.  
Decree No 20 359/2002-92 of the Ministry of Finance of the Slovak Republic of 13 November 2002 laying down detailed provisions on accounting procedures and a general chart of accounts for banks, branches of foreign banks, Národná banka Slovenska, the Deposit Protection Fund, investment firms, branches of foreign investment firms, the Investment Guarantee Fund, asset management companies, branches of foreign asset management companies, and investment funds (Notification No 644/2002).
- <sup>39</sup> Act No 431/2002.  
Decree No 21 832/2002-92 of the Ministry of Finance of the Slovak Republic of 10 December 2002 laying down detailed provisions on the ordering and numbering of items in financial statements, the contents of these items, and the scope of financial data to be disclosed by banks, branches of foreign banks, Národná banka Slovenska, the Deposit Protection Fund, investment firms, branches of foreign investment firms, the Investment Guarantee Fund, asset management companies, branches of foreign asset management companies, and investment funds (Notification No 738/2002).
- <sup>40</sup> Act No 540/2007, as amended.
- <sup>41</sup> Sections 2(1)(c) and 15(5)(c) of Act No 466/2002.
- <sup>42</sup> Section 19 of Act No 466/2002.
- <sup>43</sup> Section 3(3) of Act No 7/2005, as amended by Act No 520/2005.
- <sup>43a</sup> For example: Section 35(2) of Act No 747/2004; Decree No 17/2014 of Národná banka Slovenska of 2 September 2014 on reporting for statistical purposes by banks, branches of foreign banks, investment firms and branches of foreign investment firms (Notification No 246/2014), as amended; Decree No 3/2017 of Národná banka Slovenska of 20 June 2017 on reporting by banks, foreign bank branches and investment firms for data collection purposes under other legislation (Notification No 168/2017); Decree No 13/2017 of Národná banka Slovenska of 12 December 2017 on reporting for supervisory purposes by banks and branches of foreign banks (Notification No 337/2017).
- <sup>43b</sup> For example: Section 7(2) of Act No 575/2001 on the organisation of government activities and the organisation of central government, as amended.
- <sup>44</sup> Article 11 of Regulation (EU) No 575/2013.
- <sup>44a</sup> Article 28 of Regulation (EU) No 1093/2010.
- <sup>44b</sup> For example: Act No 566/2001, as amended; Act No 492/2009, as amended; Act No 129/2010, as amended; Act No 39/2015, as amended.
- <sup>45</sup> Section 36(4) of Act No 566/1992, as amended by Act No 149/2001.
- <sup>45a</sup> Section 2 of Act No 8/2008, as amended.
- <sup>45aa</sup> Article 18 of Regulation (EU) No 1093/2010.
- <sup>45aaa</sup> Section 138 of Act No 566/2001, as amended.
- <sup>45aaaa</sup> Article 18 (3) or (6) of Regulation (EU) No 575/2013, as amended.
- <sup>45ab</sup> Article 35 of Regulation (EU) No 1093/2010.
- <sup>45ac</sup> Article 21 of Regulation (EU) No 1093/2010.
- <sup>45aca</sup> Act No 297/2008, as amended.  
Regulation (EU) No 575/2013, as amended.
- <sup>45acb</sup> Sections (6) to (11) of Act No 747/2004, as amended.  
Act No 297/2008, as amended.
- <sup>45acc</sup> Sections 12 to 34(a) of Act No 747/2004, as amended.
- <sup>45ad</sup> Article 54 of Regulation (EU) No 1093/2010.

Article 54 of Regulation (EU) No 1094/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European supervisory authority (European Insurance and Occupational Pensions Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/79/EC (OJ L 331, 15.12.2010);

Article 54 of Regulation (EU) No 1095/2010 of the European Parliament and of the Council of 24 November 2010 establishing a European supervisory authority (European Securities and Markets Authority), amending Decision No 716/2009/EC and repealing Commission Decision 2009/77/EC (OJ L 331, 15.12.2010).

45ae Section 49(5)(c) of Act No 8/2008.

45b Act No 566/2001, as amended.

Act No 95/2002, as amended.

Act No 510/2002, as amended.

Act No 594/2003.

45c Article 19 of Regulation (EU) No 1093/2010.

Article 19 of Regulation (EU) No 1094/2010.

Article 19 of Regulation (EU) No 1095/2010.

45d Article 15 of Regulation (EU) No 1092/2010 of the European Parliament and of the Council of 24 November 2010 on European Union macro-prudential oversight of the financial system and establishing a European Systemic Risk Board (OJ L 331, 15.12.2010).

46 For example: Act No 566/1992, as amended, Act No 202/1995 – the Foreign Exchange Act (including amendments to Act No 372/1990 on non-indictable offences, as amended), as amended; Act No 118/1996, as amended; Act No 431/2002, as amended; Act No 510/2002, as amended; Act No 367/2000 on the prevention of money laundering and terrorist financing (and amending certain laws), as amended; Act No 266/2005 on the protection of consumers in respect of the distance marketing of financial services (and amending certain laws); Act No 659/2007 on the introduction of the euro in the Slovak Republic (and amending certain laws); Section 6 of Act No 384/2011 on a special levy on selected financial institutions (and amending certain laws), as amended by Act No 233/2012.

46a Article 25 to 61 of Regulation (EU) No 575/2013, as amended.

47 Sections 178(1) and (2) and 187(e) of the Commercial Code.

48 Sections 178(3) and (4) and 187(e) of the Commercial Code.

48a Section 10(5) of Act No 747/2004.

48aa Section 19(4) of Act No 747/2004, as amended.

48aaa Section 4 of Act No 357/2015 on financial controls and audits (and amending certain laws).

Section 3(1) and (2) of Act No 374/2014 on state claims (and amending certain laws).

48aaaa Article 316 of Regulation (EU) No 575/2013, as amended.

48b Article 377(5) of Regulation (EU) No 575/2013.

48c Section 37(3) of Act No 747/2004, as amended by Act No 276/2009.

48d Section 27(7) of Act No 747/2004, as amended.

Act No 18/2018 on the protection of personal data (and amending certain laws).

Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation) (OJ L 119, 4.5.2016).

48e For example: the Criminal Code, as amended.

48f Section 10(2) of Act No 371/2014, as amended by Act No 437/2015.

48g Section 34(6) of Act No 371/2014, as amended by Act No 373/2018.

48h Sections 8 and 54(2) of Act No 371/2014, as amended by Act No 437/2015.

48i Articles 92 to 403, 411 to 429b or 430 to 430c of Regulation (EU) No 575/2013, as amended.

49 Act No 566/2001, as amended.

49a Section 156a of the Commercial Code, as amended.

49aa Act No 330/2007, as amended.

49b For example: Section 9(1), first sentence, of the Labour Code; Section 20(1) of the Civil Code.

50 Act No 323/1992 on notaries and notarial activities (the Notarial Code), as amended;

Section 35(2) of Act No 233/1995, as amended by Act No 585/2006.

Act No 599/2001 on the certification of documents and signatures on documents by district authorities and municipalities.

52 Sections 3 to 107 and 176 to 195 of Act No 7/2005, as amended.

52a Section 3(6) of Act No 530/1990.

53 Sections 42a and 42b of the Civil Code.

53a Section 151me of the Civil Code, as amended.

Sections 53a to 53e of Act No 566/2001, as amended.

Section 180 of Act No 7/2005.

54 Section 5b of Act No 530/2003 on the Commercial Register (and amending certain laws), as amended by Act No 136/2010.

55 For example: Sections 70, 87 and 94 to 101 of Act No 7/2005, as amended.

56 Section 8(6) of Act No 118/1996, as amended by Act No 154/1999.

57 Sections 6, 7 and 12(4), (5) and (7) of Act No 118/1996, as amended.

Section 98(2) of Act No 371/2014, as amended by Act No 437/2015.

58 Act No 328/1991 on bankruptcy and composition, as amended;

Act No 7/2005, as amended.

59 Section 68(3)(b) of the Commercial Code.

60 Sections 12 to 34 of Act No 747/2004, as amended.

60a Section 51 of Act No 371/2014, as amended by Act No 437/2015.

60b Sections 29, 30 and 32 of Act No 747/2004.

60c Section 10 of Act No 371/2014, as amended by Act No 437/2015.

61a Article 129 of Regulation (EU) No 575/2013, as amended.

- 61aa Section 195a of Act No 7/2005, as amended.
- 61ab Section 61q(1) of Act No 233/1995, as amended by Act No 2/2017.
- 61ac Article 129(3a) of Regulation (EU) No 575/2013, as amended.
- 61b Article 129(1)(a) of Regulation (EU) No 575/2013, as amended.
- 61c Article 129(1a) to (3) of Regulation (EU) No 575/2013, as amended.
- 61d Article 129(1)(d) and (f) of Regulation (EU) No 575/2013, as amended.
- 61e Section 1(3) of Act No 90/2016 on housing loans (and amending certain laws).
- 62 Act No 371/2014, as amended.
- 62a Section 8(16) of Act No. 90/2016, as amended;  
Section 6(2) of Decree No 10/2016 of Národná banka Slovenska of 13 December 2016 laying down detailed provisions on the assessment of a consumer's ability to repay a housing loan (Notification No 373/2016).
- 62aa For example: Act No 657/2004 on thermal energy, as amended; Act No 747/2004, as amended; Act No 351/2011 on electronic communications, as amended; Act No 251/2012 on the energy sector (and amending certain laws), as amended.
- 62ab For example: Act No 523/2004 on budgetary rules for public administration (and amending certain laws), as amended.
- 63 Section 15(1) of Act No 182/1993, as amended;  
Sections 8(16) and 9 of Act No 90/2016, as amended.
- 63a Article 4(1)(76) of Regulation (EU) No 575/2013, as amended.
- 63b Article 4(1)(74) of Regulation (EU) No 575/2013, as amended.
- 63c For example: Act No 382/2004 on experts, interpreters and translators (and amending certain laws), as amended.
- 64 Section 8(16) of Act No 90/2016, as amended.  
Section 8 of Decree No 10/2016 (Notification No 373/2016), as amended by Decree No 7/2018 (Notification No 169/2018).  
Article 208(3) of Regulation (EU) No 575/2013, as amended.
- 64a Guideline (EU) 2015/510 (ECB/2014/60) of the European Central Bank of 19 December 2014 on the implementation of the Eurosystem monetary policy framework (OJ L 91, 2.4.2015), as amended.
- 64b Article 129(1)(b) of Regulation (EU) No 575/2013, as amended.
- 64c Article 129(1)(c) of Regulation (EU) No 575/2013, as amended.
- 65 Section 5(1)(d) of Act No 566/2001, as amended.
- 66 Article 30 of Commission Delegated Regulation (EU) 2016/2251 of 4 October 2016 supplementing Regulation (EU) No 648/2012 of the European Parliament and of the Council on OTC derivatives, central counterparties and trade repositories with regard to regulatory technical standards for risk-mitigation techniques for OTC derivative contracts not cleared by a central counterparty (OJ L 340, 15.12.2016), as amended.  
Paragraph 6.4.1 of the Annex to Commission Regulation (EC) No 1126/2008 of 3 November 2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council (OJ L 320, 29.11.2021), as amended.
- 66a Articles 10 and 11 of Commission Delegated Regulation (EU) 2015/61 of 10 October 2014 to supplement Regulation (EU) No 575/2013 of the European Parliament and the Council with regard to liquidity coverage requirement for Credit Institutions (OJ L 11, 17.1.2015).
- 66aa Article 129(1)(c) of Regulation (EU) No 575/2013, as amended.
- 66b Act No 162/1995, as amended.
- 66ba Sections 70, 94, 95 and 195a(2) and (3) of Act No 7/2005, as amended.
- 66c For example: Section 34b(1)(a) to (c) of Act No 566/1992, as amended; Section 36(2) to (4) of Act No 747/2004, as amended.
- 66d Sections 32 to 83 and 195a of Act No 7/2005, as amended.  
Act No 371/2014, as amended.
- 66e Section 2(1)(u) of Act No 530/2003, as amended.
- 66f Section 195a(2) to (8) of Act No 7/2005, as amended.
- 66g Section 38(1) of Act No 371/2014, as amended by Act No 291/2016.
- 66h Section 38(5) of Act No. 371/2014, as amended.
- 67 Act No 233/1995 on court executors and execution activities (and amending certain laws) (the Execution Code), as amended.  
Section 28(2) of Act No 566/1992, as amended.
- 72 Act No 10/1996 on inspection in state administration.
- 72a Act No 71/1967 on administrative proceedings (the Code of Administrative Procedure), as amended.
- 72b For example: Section 8(5) of Act No 270/1995 on the state language of the Slovak Republic, as amended.
- 72c For example: Sections 2(3) and 53(1) and (4) of the Civil Code; Sections 19(d) and 20(e) of the Code of Civil Dispute Procedure; and Articles 6 and 19 of Regulation (EC) No 593/2008 of the European Parliament and of the Council of 17 June 2008 on the law applicable to contractual obligations (Rome I) (OJ L 177, 4.7.2008), as amended.
- 72d Section 2(m) of Act No 129/2010 on consumer credit and on other credit and loans for consumers (and amending certain laws).
- 73 Act No 224/2006 on identity cards (and amending certain laws), as amended by Act No 693/2006.  
Act No 381/1997 on travel documents, as amended.  
Act No 48/2002 on the residence of foreigners (and amending certain laws), as amended.  
Act No 480/2002 on asylum (and amending certain laws), as amended.
- 73a Sections 6(1) and (2), 7 to 7d, 8 to 8b and 10(4) of Act No 182/1993, as amended.
- 73aa Section 21(1)(a) of Act No 305/2013 on the electronic performance of tasks by public authorities (and amending certain laws) (the e-Government Act), as amended.
- 73ab Article 3(12) of Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC (OJ L 257, 28.8.2014), as amended.  
Act No 272/2016 on trust services for electronic transactions in the internal market (and amending certain laws) (the Trust Services Act).

- <sup>73ac</sup> For example: Commission Delegated Regulation (EU) 2018/389 of 27 November 2017 supplementing Directive (EU) 2015/2366 of the European Parliament and of the Council with regard to regulatory technical standards for strong customer authentication and common and secure open standards of communication (OJ L 69, 13.3.2018), Act No 297/2008, as amended.
- <sup>74a</sup> Act No 266/2005 on the protection of consumers in respect of the distance marketing of financial services (and amending certain laws).
- <sup>74b</sup> Section 19 of Act No 305/2013, as amended.
- <sup>74c</sup> Section 10(5) of Act No 305/2013, as amended.
- <sup>74d</sup> Section 23a of Act No 253/1998, as amended.
- <sup>74e</sup> Sections 29 to 36 of Act No 480/2002, as amended.
- <sup>74f</sup> Section 32(1)(a) Act No 480/2002, as amended.
- <sup>74g</sup> Section 8 Act No 297/2008, as amended.
- <sup>75</sup> Section 2(2) of the Commercial Code.
- <sup>76</sup> Section 23 of Act No 511/1992 on the administration of taxes and fees and on changes to the system of local financial authorities, as amended.
- <sup>76a</sup> Section 38(6) of Act No 492/2009, as amended by Act No 352/2012.
- <sup>76aa</sup> For example: Act No 233/1995 on court executors and execution activities (and amending certain laws) (the Execution Code), as amended.
- <sup>77</sup> Sections 3(3) and 12(1) of Act No 118/1996, as amended by Act No 154/1999.
- <sup>78</sup> Act No 310/1992, as amended.
- <sup>79</sup> The Code of Civil Dispute Procedure.  
The Code of Civil Non-Dispute Procedure.  
The Code of Administrative Court Procedure.
- <sup>80</sup> The Criminal Code, as amended.
- <sup>80c</sup> For example: Section 4(3)(c) of Act No 369/1990 on municipalities, as amended by Act No 453/2001.
- <sup>81</sup> Act No 511/1992, as amended.  
Act No 199/2004, as amended.  
Act No 357/2015.
- <sup>82a</sup> Section 16b of Act No 233/1995, as amended by Act No 341/2005.
- <sup>83</sup> Act No 71/1967 on administrative proceedings (the Code of Administrative Procedure).
- <sup>83a</sup> Sections 94, 95, 180a, 195a and 206i of Act No 7/2005, as amended.
- <sup>84</sup> Sections 2(1)(b), (c) and (l), 29a and 76 of Act No 171/1993 on the Police Force, as amended.
- <sup>84a</sup> Section 4(5)(c) of Act No 101/2010 on proving the origin of property.
- <sup>84b</sup> Act No 404/2011, as amended.
- <sup>85</sup> For example: Sections 5 and 6 of Act No 310/1992, as amended; Sections 2(a), 6, 12(1), 14(6) and 16(6) of Act No 126/2011 on the implementation of international sanctions.
- <sup>86</sup> For example: the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Notification No 462/1991), the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions (Notification No 318/1999), the Council of Europe Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime and on the Financing of Terrorism (Notification No 109/2002), the Council of Europe Criminal Law Convention on Corruption (Notification No 375/2002), and the International Convention for the Suppression of the Financing of Terrorism (Notification No 593/2002).
- <sup>86a</sup> Act No 215/2004 on the protection of confidential information (and amending certain laws), as amended.
- <sup>86b</sup> Sections 2 and 4 of Act No 39/1993 on the Supreme Audit Office of the Slovak Republic, as amended.
- <sup>86c</sup> Sections 6 to 13 of Act No 65/2001 on the enforcement of judicial claims.
- <sup>86d</sup> Section 2(1)(d) and (2) of Act No 46/1993 on the Slovak Intelligence Service, as amended by Act No 256/1999.
- <sup>86da</sup> Section 2(1) of Act No 198/1994 on Military Intelligence, as amended.
- <sup>86db</sup> Section 11(2) of Act No 199/2004, as amended.  
Sections 4(3)(y) and 9(2)(h), (i) and (l) of Act No 35/2019 on financial administration (and amending certain laws), as amended by Act No 431/2021.
- <sup>86dc</sup> Sections 4(2), 14(5) and (6) and 16(6) of Act No 126/2011, as amended by Act No 394/2011.
- <sup>86dd</sup> Act No 315/2016 on the Register of Public Sector Partners (and amending certain laws).
- <sup>86de</sup> Section 22(2) of Act No 136/2001, as amended.  
Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty (OJ L 1, 4.1.2003, Special Edition in Slovak: Chapter 08 Volume 002), as amended.
- <sup>86df</sup> Section 85(7) of Act No 30/2019 on gambling games (and amending certain laws).
- <sup>86dg</sup> Act No 461/2003, as amended.
- <sup>86dh</sup> Section 225j of Act No 461/2003, as amended by Act No 2/2017.
- <sup>86di</sup> Section 167 of Act No 343/2015 on public procurement (and amending certain laws), as amended by Act No 345/2018.
- <sup>86dj</sup> Sections 7 and 12 of Act No 54/2019 on the protection of whistleblowers (and amending certain laws).
- <sup>86dk</sup> Section 27ha(6) of Act No 185/2002 on the Judicial Council of the Slovak Republic (and amending certain laws), as amended by Act No 423/2006.
- <sup>86dl</sup> Section 50(6)(h) and (7) of Act No 595/2003, as amended.
- <sup>86dm</sup> Section 50(1)(a) of Act No 595/2003, as amended.
- <sup>86dn</sup> Section 73b of Act No 323/1992, as amended by Act No 357/2003.
- <sup>86do</sup> Sections 3(2), 5(3) and (4) and 6(6) and (7) of Act No 181/2014, as amended.
- <sup>86dp</sup> Sections 3(5), 5(7) and 6(8) of Act No 181/2014, as amended.
- <sup>86dn</sup> Section 73b of Act No 323/1992, as amended by Act No 357/2003.
- <sup>86dq</sup> Article 7(3a) of Regulation (EU, Euratom) No 883/2013 of the European Parliament and of the Council of 11 September 2013 concerning investigations conducted by the European Anti-Fraud Office (OLAF) and repealing Regulation (EC) No 1073/1999

of the European Parliament and of the Council and Council Regulation (Euratom) No 1074/1999 (OJ L 248, 18.9.2013), as amended.

- <sup>86dqa</sup> Section 13(3) of Act No 526/2023 on assistance with the repayment of housing loans (and amending certain laws).
- <sup>86dr</sup> For example: the Criminal Code; Sections 29a(4) and 76 of Act No 171/1993, as amended; Section 11(2) of Act No 199/2004, as amended by Act No 672/2006; Section 4(5)(c) of Act No 101/2010; Act No 35/2019, as amended.
- <sup>86e</sup> Act No 126/2011.
- <sup>86f</sup> Sections 20f to 20j of the Civil Code.
- <sup>86g</sup> Act No 359/2015 on automatic exchange of financial account information for tax administration purposes (and amending certain laws).
- <sup>86ga</sup> Act No 442/2012 on international assistance and cooperation in tax administration, as amended.
- <sup>86h</sup> Section 7(6), (7) and (11) of Act No 129/2010, as amended.
- <sup>86i</sup> Section 20(1)(a) of Act No 129/2010, as amended by Act No 35/2015.
- <sup>86j</sup> Act No 69/2018 on cybersecurity (and amending certain laws).
- <sup>86k</sup> Section 4 of Act No 123/2022 on the Central Register of Accounts (and amending certain laws).
- <sup>87</sup> For example: Act No 36/1967 on experts and interpreters, as amended by Act No 238/2000 and Act No 466/2002.
- <sup>87a</sup> Act No 527/2002 on voluntary auctions (and amending Act No 323/1992 on notaries and notarial activities (the Notarial Code), as amended), as amended.
- <sup>87aa</sup> Section 75(12) of Act No 7/2005.
- <sup>87ab</sup> For example: Act No 527/2002, as amended; Act No 233/1995, as amended.
- <sup>87ac</sup> Section 17(1) and (2) of Act No 129/2010, as amended.  
Section 525(2) of the Civil Code, as amended.
- <sup>87ad</sup> Section 20(6) and (8) of Act No 90/2016.
- <sup>87b</sup> Sections 4(3), 5, 23 and 55 of Act No 428/2002.
- <sup>87c</sup> Section 8 of Act No 129/2010 on consumer credit and on other credit and loans for consumers (and amending certain laws).
- <sup>88</sup> Act No 140/1961 – the Criminal Code, as amended.
- <sup>88a</sup> Section 3 of Act No 428/2002.
- <sup>88b</sup> For example: Act No 530/2003 on the Commercial Register (and amending certain laws); Sections 3a and 27 to 33 of the Commercial Code; Sections 2(2), 10 and 11 of Act No 34/2002 on foundations (and amending the Civil Code), as amended; Sections 9(1) and (2) and 10 of Act No 147/1997 on non-investment funds (and amending Act No 207/1996); Sections 9(1) and (2) and 11 of Act No 213/1997 on non-profit organisations providing services beneficial to the public interest, as amended by Act No 35/2002; Sections 6, 7, 9 and 9a of Act No 83/1990 on the association of citizens, as amended; Sections 6(1) and 7 of Act No 182/1993 on the ownership of flats and non-residential premises, as amended; Section 4(3) of Act No 515/2003 on regional offices and district offices (and amending certain laws).
- <sup>88c</sup> For example: Act No 367/2000, as amended; Act No 431/2002; Act No 395/2002 on archives and registries (and amending certain laws).
- <sup>88d</sup> Sections 4(5) and 7(3) of Act No 428/2002.
- <sup>88e</sup> Sections 4(1)(a), (b) and (c), 7(3), (5), second sentence, and (6), second sentence, 8(2) and 10(6) of Act No 428/2002.
- <sup>88f</sup> Section 2 of Act No 301/1995 on the personal identification number.
- <sup>88g</sup> Act No 18/2018.  
Regulation (EU) 2016/679.
- <sup>88h</sup> For example: Sections 12(1) and (2) and 22b of Act No 118/1996, as amended.
- <sup>88i</sup> Sections 23 and 55 of Act No 428/2002.
- <sup>88ia</sup> Sections 10(7) and 13(7) of Act No 428/2002.
- <sup>88ib</sup> Section 15 of Act No 224/2006, as amended.
- <sup>88ic</sup> Sections 7(1)(b) and 7a(3) and (4) of Act No 272/2015 on the Register of Legal Entities, Entrepreneurs and Public Authorities (and amending certain laws), as amended by Act No 302/2023.
- <sup>88j</sup> Section 90(1) of Act No 492/2009, as amended by Act No 373/2018.  
Act No 391/2015 on alternative dispute resolution for consumer disputes (and amending certain laws), as amended.
- <sup>88k</sup> For example: Act No 244/2002, as amended; Act No 420/2004 on mediation (and amending certain laws), as amended.
- <sup>89</sup> Act No 747/2004 on financial market supervision (and amending certain laws).
- <sup>89a</sup> For example: Act No 310/1992, as amended.
- <sup>90</sup> For example: Act No 566/1992, as amended; Act No 747/2004, as amended.
- <sup>92</sup> Act No 92/1991 on conditions for the transfer of state property to other persons, as amended.
- <sup>93</sup> The Code of Criminal Procedure, as amended; Section 4(1) of Act No 171/1993, as amended by Act No 116/2000.
- <sup>94</sup> Sections 163(1) and (6) and 163a of Act No 566/2001, as amended.
- <sup>95</sup> Act No 659/2007.
- <sup>96</sup> Guideline of the European Central Bank of 14 July 2006 on certain preparations for the euro cash changeover and on frontloading and sub-frontloading of euro banknotes and coins outside the euro area (ECB/2006/9, 2006/525/EC) (OJ L 207, 28.7.2006).
- <sup>97</sup> For example: Act No 233/1995, as amended; Act No 65/2001 on the enforcement of judicial claims, as amended.
- <sup>98</sup> For example: Sections 17a and 17b of Act No 566/1992 as amended.
- <sup>99</sup> Sections 3(4) to (9) of Act No 659/2007 on the introduction of the euro in the Slovak Republic (and amending certain laws).
- <sup>100</sup> Section 32(1) of Act No 492/2009.
- <sup>101</sup> Section 3(6) and (11) and Section 27f(1) of Act No 530/1990, as amended.
- <sup>102</sup> Section 3(8) to (10) of Act No 530/1990, as amended.
- <sup>103</sup> Article 4(1)(l)(b) of Regulation (EU) No 575/2013, as amended.
- <sup>104</sup> Section 54 of Act No 566/2001, as amended.
- <sup>105</sup> Article 129(1)(d) and 129(1c) of Regulation (EU) No 575/2013, as amended.